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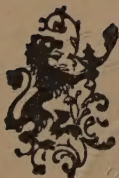
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CIVIL GOVERNMENT

OF NORTH CAROLINA
AND THE UNITED STATES

BY

W. J. PEELE



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PREFACE

The value of an early acquired knowledge of the form and operation of our government, state and national, of its foundation principles, and of the rights, duties, and privileges of its citizens, will hardly be overrated.

Next in importance is the study of the key words—the words of legal, special, and technical significance. Viewed merely as a mental exercise, there is no study in which the character and quality of the mind will be more speedily manifested and developed. The teacher who is not from the very heart appreciative and interested, and the pupil who neglects to grasp and hold the essential meanings of the terms in which the basic principles are wrapped, will fail together.

Little of the gold of truth lies upon the surface. The treasures in the earth are opened to those who toil and dig, and the treasures in the temple of knowledge are opened to those who seek and knock.

A differentiating feature of this book is the careful citation of authorities—"a frequent recurrence to fundamental principles." Its main purpose is to prepare children for the duties of citizenship in North Carolina; and to understand these duties, we must have a knowledge of the laws and institutions, state and national, by and under which our rights and liberties are defined and maintained. This brief discussion of the essential principles of government and of the familiar constitutional rights and duties of citizens is designed for those who will make the destinies of this commonwealth and help make the destinies of the nation. Some of them will help guide the councils of both. No one who may become a voter, or who may train voters some day

at a mother's knee, can afford to know less of our laws and institutions than is contained in the pages of this book. Its method is to illustrate in cases of difficulty, to emphasize and define important words and phrases, and to keep ideas and principles which are normally akin grouped together in families. A chief merit is its brevity, and perhaps no more credit should be asked for what is said than for what is omitted.

The Great Teacher has taught us how to teach. "Have ye not read," and "I will liken," are the phrases which indicate His methods. He used both the history of truth and its relation to the things of common knowledge and experience to impress it upon the minds of His hearers. So history and illustration are the kindly lights which lead us into a knowledge of government, of organic law, and of the ideals of civic righteousness. Those who have learned of the battles which have raged around the establishment of a political principle are best equipped to defend and maintain it. If these pages contain sufficient allusion to the history of our institutions and sufficient citation of authority to suggest the necessity for greater familiarity with original sources, they will not have been written in vain.

The rock-ribbed structure of organic law, like the outline or configuration of a range of mountains, must be made familiar by views from different standpoints. First its main features should be regarded; gradually its order, symmetry, and arrangement emerge into view and fall into comprehension; then near excursions may be made with pleasure and safety, and investigation pursued in detail. The "Grandfather" peak of our organic law is local self-government, whose brow is received into a perpetual cloud of historic glory lighted with the light of another world, and whose foundations are rooted in individual responsibility to God.

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FORMATION OF GOVERNMENT

CIVIL GOVERNMENT

CHAPTER I

KEY WORDS AND PRINCIPLES

In order to understand principles it is necessary to have a clear idea of the terms by which they are expressed and defined. This is illustrated at the very outset of the study of civil government by a consideration of the words 'state', 'nation', 'law', and 'government.'

STATE

1. 'State' Defined.—The word 'state' literally signifies to stand, to be fixed or established. It has in it the idea of permanence. A state is an established community of people occupying a fixed territory, united under a distinct government that has sovereign, or supreme, powers. When there are two governments over one people, as the state and the United States, these powers are divided between them. The term 'state' sometimes refers to the people, sometimes to the territory they occupy, and often to the government by which they exercise their powers. It is essential that a state should be able to make and enforce laws, and that its authority and the integrity of its organization should be respected by the states and nations with which it deals.

2. **State of the American Union.**—The government of a state of the American Union is a limited sovereignty,—that is, the state is sovereign only in those matters which relate solely to its own people, in those which it has not delegated to the nation. In what concerns the rights and interests of the whole Union or of two or more states, the United States is supreme. On this account one state deals with a foreign state or nation only through the national government. This government may protect a state but cannot lawfully destroy it or allow it to be destroyed by any foreign power. So the territory of a state cannot without its consent be ¹divided or made part of another state; nor can a state be deprived of equal representation in the ²senate of the United States. The hope of the founders of our nation was that ours should be an ‘indestructible union of indestructible states.’

NATION

3. **‘Nation’ Defined.**—Literally the word ‘nation’ signifies a people sprung from the same ancestry—a people having unity of origin or birth. This unity may be one of blood, of interests, or of laws, customs, and institutions. The word ‘nation’ as used in this book means a people or community associated together and organized under one government, and usually dwelling together in a distinct territory.

When a people are united only or mainly by ties of blood they are usually called a tribe. They may move about in a body from one territory to another and still preserve their tribal relation; but a nation, like a state, has a fixed place of abode. A nation is in fact a state; but the word ‘state’ is

¹For references indicated by small figures see pages 219–227.

often restricted in meaning so as to imply only a part of a nation; as, for example, a state of the American Union.

In our country both state and nation possess powers of government independent of outside control. Every state in the Union is sovereign and supreme in those matters which relate solely to its own people; and the United States is supreme in matters which concern the 'general welfare' of the states; or better stated, the sovereignty of a state extends to all matters not delegated to the Union. The word 'state' was adopted by the thirteen colonies which formed the Union to describe each of their respective governments and peoples. The word 'nation' has been accepted as the correct term to use when speaking of the whole people of the United States.

On the other hand, a state may be composed of two or more nations or peoples. Russia, for example, is a great state which is naturally divided into two or more different peoples. These were once distinct nations and even now may be so considered, though they have a union more or less complete under one government. The power of the sword and a widespread similarity of religion are the principal ties which bind these peoples or nations together in one state.

✧ **Decay of Nations.**—Like individuals a state or nation, or body politic, as the lawyers often call it, is subject to disease and decay. The track of time is strewn thick with the wrecks of communities, or aggregations of men, and their rise and destruction is the principal topic of history.

The decline and fall of the Roman Empire gives us an example of nearly all the ills that afflict nations and governments. The worst of these ills are: the love of bloodshed

and war; the lust for conquest and power; avarice and covetousness, which are the worship of money and the things which money will buy; the strife of factions contending for the control of the power to collect taxes; the use of the taxes to enrich individuals rather than to benefit the people; the making of laws which operate unequally—laws which certain classes of citizens may evade or refuse to obey, or laws which bestow special privileges upon some while withholding them from others, or laws which throw the burden of supporting the government upon those least able to bear it; neglect of the people to instruct themselves and educate their children in the vital principles of government, morality, and religion. These are the evils which overthrow states and destroy peoples and plunge them into the punishment reserved for the nations that forget God.

LAW

5. Natural Law.—The law of gravitation, by which men and houses are kept to the earth, and by which the earth is held and follows its path around the sun, is a law of nature. A disregard of this law, as the throwing of oneself from a high place, is punished with injury to the body. Violations of nature's laws usually carry with them their own punishment.

6. Moral Law.—"Thou shalt not steal" is a moral law; "Thou shalt do no murder" is another. These and other moral laws, which have been adopted by men, are written in their hearts or implanted in their consciences. They were enforced and violations of them were punished long before any law books were made, and doubtless long before there was any regularly established government.

7. Human Law.—In an ideal world with the perfect law of love in every heart, there would be little need of any other kind of law. To be free to do right would be the best definition of liberty. But as society advances,—that is, as civilization increases—man's power to do mischief is greater; hence it has become necessary to make laws to narrow, curtail, and guard his freedom. Such laws are called human laws.

8. How Laws are Made.—In our country law is made by the people through representatives elected for that purpose. State law is made by the people of the state; United States law, by the people of the United States,—that is, by the people of the different states which compose the Union acting together through those whom they have chosen to represent them in its management. The 'Congress of the United States is composed of representatives chosen by the people of the several states. A state legislature is composed of representatives, or delegates as they are sometimes called, elected by the people of a particular state to make laws for that state only.

Representatives are elected to make laws because it is not practicable for the people themselves to assemble in legislative halls and carry on such business. The people are too numerous to assemble; and, besides, the plan of representation gives them an opportunity to choose, if they will, the best and wisest among them as their lawmakers and leaders. In free countries the officers of government are called public servants, and such indeed they are. When the people select for public servants such as seek mainly private gain, they will be misgoverned; but, "When the righteous are in authority the people rejoice."

The legislature of North Carolina is called the general assembly. Laws enacted by legislative bodies, such as Congress and the state legislatures, are called statutes. The decisions and opinions of the courts determine the law or its meaning in particular cases, and these serve as guides when similar cases arise.

9. Punishment.—Man, who is made in the image of God, has imitated his Creator both in making laws and in punishing their violation. Punishment by human law is the deprivation of some right, as taking away the right of personal liberty by imprisonment; or the deprivation of some privilege, as preventing one from voting or holding office.

¹Punishment in North Carolina is by removal from office, fines, imprisonment with or without hard labor, and death. Its purpose is to deter evildoers from breaking the law and to reform the lawbreakers. The policy of our law is to fine or imprison for small offences, to imprison with hard labor for the greater, and to hang by the neck until dead for the greatest of all.

GOVERNMENT

10. 'Government' Defined.—Government may be defined as the agency or combination of agencies by which the laws are made and carried out. The government of North Carolina is administered, or conducted, by officers appointed and elected under state laws. The government of the United States is administered by officers appointed and elected under the laws of the nation. The powers of both state and nation are limited by law.

II. Forms of Government.—Governments differ in form according to the different tempers, dispositions, and needs of the people who maintain and obey them.

The United States is a republic. The word ‘republic’ is of Latin origin and means the rule of the people at large through officers chosen by them or appointed by those whom the people elect. Such also is the government of North Carolina and of each of the other states composing our union. The constitution of the United States guarantees to every state “a republican form of government,”—that is, a government having a form or frame that secures to the people the control of their own affairs.

The word ‘democracy’ is of Greek origin and signifies “power in the people.” A democracy is a government in which the people hold and exercise all the powers. They make and execute laws either directly by an assembly of themselves or indirectly through their representatives, agents, and officers. In the latter sense democracy does not differ materially from a republic. The nearer the government is to the people—the more of its officers they choose or elect directly—the more democratic it is. For example, North Carolina is more democratic than the United States. In the former the people elect the governor, the judges of the supreme and superior courts, and other state officers, the members of the legislature, and the various county officers. In the latter, however, the people elect only the members of Congress and the presidential electors—persons chosen by each state to elect the president and vice-president. The other officers of the national government are appointed either by the president or in such manner as Congress by law provides.

Local self-government, which is the life of a democracy, exists where each community has control of its local affairs. It is opposed to centralization, which exists where the local as well as the general government is administered or carried on from one center of power.

A monarchy is an example of a centralized government. The word means "the rule of one." The government of a monarchy is so framed that a single individual may control it and the title to it may be, and usually is, passed by law on to other members of the monarch's family.

There are two kinds of monarchy,—absolute and limited. An absolute monarchy is one which is ruled over absolutely by a monarch and his advisers, and the people have no voice in choosing their officers. Persia is an example of such a government. A limited monarchy is one in which the will of its monarch is limited by law or by the lawmaking power. England is an example of such a government. Parliament is its legislature or chief lawmaking power, the more important branch of which, the House of Commons, is elected by the people. The king is in fact a ruler only in name; though he receives a much larger salary, he has considerably less power than the president of the United States.

12. Purposes of Government.—The main purposes of a just government are to preserve its honor and integrity, to protect the people against enemies at home and abroad, and to secure them in the enjoyment of their liberties and in the exercise of their rights. To this end laws are made and violations of law are punished. The power to make laws carries with it the power to prescribe punishment for their

violation. In order to defray the expenses of enforcing the laws, taxes are collected.

A great and growing purpose of government is to secure peace. "To insure domestic tranquility" is one of the reasons given for the establishment of the American Union. War can be justified only when its purpose is to place peace on a more enduring basis. Now the nations of the earth are learning to settle their disputes by arbitration, which is submitting the matter in controversy to the judgment of disinterested persons or of governments not concerned in the quarrel.

In the eyes of law peace reigns over all the land—in the home, on the highway, in the streets of towns and villages, in the quiet of the deep-shaded forest. Everyone has the right to move about in safety and security, pursue his lawful business, and enjoy his freedom under the law. The peace is broken when some crime or violation of law is committed. Every public wrong is a "breach of the peace." Wrongdoers are hunted down and separated from peaceful citizens by confinement in prison; in indictments, or public accusations against them, they are charged with having committed offences against the "peace and dignity of the state."

The real strength of a just government lies in the virtue, intelligence, and bravery of the people who support and obey it, and it will receive such support and obedience so long as it meets their wishes and needs.

13. Purposes of the National Government.—The purposes of the United States government are best expressed in the language of the preamble, or opening sentence, of the constitution:

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America."

Learn! 14. **Purposes of the State Government.**—The purposes of the government of North Carolina is expressed in the preamble to its constitution:

"We, the people of North Carolina, grateful to Almighty God, the Sovereign ruler of nations, for the preservation of the American Union, and the existence of our civil, political, and religious liberties, and acknowledging our dependence upon Him for the continuance of those blessings to us and our posterity, do, for the more certain security thereof, and for the better government of this state, ordain and establish this constitution."

THOUGHT QUESTIONS

1. How many states are there in the American Union?
2. Where do tribal governments chiefly prevail?
3. Name several tribes that live in this country.
4. Name some nations which have fallen from causes similar to those which overthrew the Roman Empire.
5. Who was the great lawgiver of the Old Testament?
6. What moral laws were given through him?
7. What are the two most common forms of government now existing?
8. What form predominates on the western continent? on the eastern?
9. Name two republics in Europe; one in Africa.
10. What part of North America is not under a republican government?
11. What is the title of the chief ruler of England? Germany? Russia? France? Turkey? Persia? Brazil? Japan?

CHAPTER II

FORMATION OF GOVERNMENT IN NORTH CAROLINA

CHARTER GOVERNMENT

15. Raleigh's Charter.—The first government of English-speaking people in North Carolina was likewise their first government in America. It was conducted under the charter, or writ of authority, granted by Queen Elizabeth to Sir Walter Raleigh, dated March 25, 1584. This government was practically begun upon the landing of Governor Ralph Lane's colony on Roanoke Island in August, 1585.

The charter of the British queen guaranteed to settlers in the territory the same rights and liberties that were possessed by freemen in England. It transplanted into America the protection of English law. It allowed special laws to be made for the government of the colony by those who were responsible therefor, provided, however, that "the statutes, laws, and ordinances may be, as near as conveniently, agreeable to the form of the laws, statutes, government or policy of England." The children of all English subjects born in America were to enjoy all the rights and privileges of persons born in England.

The power of administering the government of Governor John White's colony, which came over to the shores of North Carolina in 1587, was vested in the governor and twelve assistants.

16. Charter of the Lords Proprietors.—After White's colony disappeared, there is no record of any government in North Carolina until 1663. In that year William Drummond was appointed under the authority of the charter which had been lately granted by the English king, Charles II, to the eight persons known in history as the lords proprietors. This charter of 1663 and the one amending it in 1665 conveyed to the proprietors the title to all the land in the southern part of North America from the Atlantic to the Pacific oceans included within the parallels of 36°, 30' and 29° north latitude. This, as will be seen from the maps, included what is now the state of North Carolina.

Among the other powers of government which these charters conferred on the lords proprietors was that of "enacting laws and constitutions for the people of that province by and with the advice, assent, and approbation of the freemen thereof or of the greater part of them or of their delegates or deputies." In this manner it was provided that the people should have a voice in their own government; the right so guaranteed they would never surrender either to the proprietors during their government or afterwards to the king of England.

17. Charter as Constitution.—The word constitution as used in these charters had not then been exactly restricted to its present meaning; but then as now it carried with it the idea of a frame or plan of government. All forms of colonial government were more or less experimental and intended to serve their purpose until something of a more lasting nature could be devised. They were, therefore, more subject to change and amendment than the present carefully considered

constitutions by and under which the governments of the states and nation are now carried on.

There were, however, certain forms of law and safeguards of liberty which the charters expressly guaranteed or did not attempt to take away. These the colonists regarded as in the nature of a contract between them and the British government. This contract they looked upon as permanent and as having very much the same force and obligation as are possessed by the constitutions of the present day.

18. Governor and Legislature.—There were, under the proprietors, a governor and a council and the delegates or representatives of the people. The governor was appointed by the proprietors as was also the council, though members of it were sometimes appointed by him. The delegates were elected by the people they represented, or stood in the place of in the business of making laws for the colony. The delegates were sometimes called deputies, and the councilmen were also called deputies of the proprietors.

The legislature was composed of two houses. The governor and members of the council formed one house and the delegates, or representatives (also called assemblymen), formed the other. They made such laws as the proprietors and their charters permitted them to make. These laws the proprietors claimed the right to veto or nullify. The colonists, however, all the while insisted that the charters guaranteed to them certain constitutional rights which the proprietors could not override or take away.

19. Locke's Constitution.—In 1669 the proprietors undertook to establish what was probably the most aristocratic

form of government ever set up in America. It was called the "Grand Model" or "Fundamental Constitutions," which is said to have been written by the great philosopher John Locke. It is quite likely, however, that he merely or mainly assisted in putting into logical system the ideas of the proprietors. Their purpose was to enrich themselves, their friends, and dependents at the expense of those whom they had undertaken to govern. Opposing this purpose were the men who with gun and axe were pioneering their way through forest and swamp, and river and sound; they were determined that their own people should reap the benefits of their labors.

For more than twenty years the people resisted the various attempts of the proprietors to enforce obedience to their "Grand Model" or to the modified forms of it, by which they sought to sugar-coat its worst features. This resistance marks the beginning of the long struggle which a century later, in the Revolutionary War, broke the enslaving shackles of British interests in America.

ROYAL GOVERNMENT

20. Proprietors Superseded by the King.—Tiring of their attempts to govern the colonists and being offered a large amount of money for their interests in Carolina, the proprietors in 1728 concluded an agreement with the British king whereby they surrendered their charters, which included all their powers of government. The next year this agreement was confirmed by an act of Parliament. The province then came under the direct control of the British government, and the king, instead of the proprietors, began to appoint the col-

onial governors and the members of the council. Such other general officers as were thought proper for the colony were also appointed by direct authority of the British government. As in the days of the proprietors the governor sat with his council. The colonists continued to elect members of the assembly to represent their interests in the colonial legislature. This form of government continued until, in the Revolutionary War, the people finally won the right to govern themselves.

21. Spirit of Independence.—The disappointment of those who undertake to rule a liberty-loving people for the enrichment of the few rather than for the common benefit of all was perhaps never better voiced than in an official document of Governor Burrington concerning the North Carolinians of his time. In 1732, twenty-three years before the Stamp Act Congress, he wrote:

“The people are neither to be cajoled or outwitted; whenever a governor attempts to effect anything by these means he will lose his labor and show his ignorance. . . . They insist that no public money can or ought to be paid but by a claim given to and allowed by the house of burgesses.”

The house of burgesses here spoken of was the assembly branch of the legislature, elected by the people of the colony. The people insisted that no money should be appropriated or used to pay any claim without the approval and consent of this branch of the assembly. The council was sometimes called the ‘upper house,’ after the style of the House of Lords in the British Parliament. Finally this became a term of derision as indicating a disposition to ape that partly aristocratic government.

THE PROVINCE BECOMES A STATE

22. The People Unite.—It is now proper to show the steps by which this British province became an independent state. The separation of the province from Great Britain, the formation of a state government, and the uniting of North Carolina with the other states were affected by means of five meetings of the people's chosen representatives. Those meetings, or Congresses, as they were called, are mentioned in the order in which they occurred.

23. First Provincial Congress.—The first Provincial Congress of North Carolina, or "general meeting" of the delegates elected without authority of the British government, met at New Bern, August 25, 1774. It was the beginning of organized revolutionary government in the province. Martin, the last governor appointed by the British king, issued his proclamation denouncing the election of this Congress and forbidding its assembly as illegal and treasonable. It met in defiance of him. Colonel John Harvey was elected moderator, as the presiding officer was then called.

This Congress resolved among other things to stop all exports and imports to and from Great Britain, until the rights of the colonists should be declared and acknowledged. Imports into the colony from Great Britain were to be stopped after the first day of January, 1775. Exports from the colony to Great Britain were to be stopped after the first day of October, 1775.

There was a Committee of Correspondence for the province whose duties were to keep in communication with similar

committees in the other colonies and with the local Committees of Five elected in the several counties. These local organizations were also called Committees of Safety. In many instances they assumed powers of government and carried out the will of the people. At the same time the provincial government in the counties was asserting or attempting to assert the authority of the king.

This Congress also appointed delegates to the general Congress of the colonies which was to meet at Philadelphia in September following. That body is known in history as the first Continental Congress (§35).

24† Second Provincial Congress.—The second Provincial Congress, or convention, as it was called, met at New Bern, April 3, 1775. John Harvey was again elected moderator. He was also the speaker or presiding officer of the assembly branch of the colonial legislature, which was in session at New Bern at the same time in response to the call of Governor Martin. Sixty-one members of the assembly were also members of the Congress. The patriots controlled both bodies. This assembly was the last called together under British authority. The provincial governor, finding it out of harmony with his views, dissolved it, April 8, 1775. The Congress, however, was a revolutionary body which he could not so adjourn at pleasure; though as a matter of fact, after finishing its business, its session came to an end, about the same time the assembly was dissolved.

The principal acts of this Congress were to compliment and endorse the conduct of its delegates to the first Continental Congress, to approve the proceedings of that body, and to appoint delegates to the second Continental Congress, which

was to meet at Philadelphia May 10, 1775. The work of these delegates, the instructions under which they acted, and North Carolina's part in the formation of a general government will be considered in a subsequent chapter.

25. Third Provincial Congress.—The third Provincial Congress met at Hillsborough, August 21, 1775. Samuel Johnston was chosen president. War with Great Britain had already commenced. The battle of Lexington had been fought and Governor Martin, threatened by the North Carolina militia, had taken refuge in a British ship near the mouth of the Cape Fear river.

This Congress appointed a committee to prepare an address to the people of North Carolina. This address declared that it was right to have a revolutionary government in the province and that the people should take up arms in defence of American liberty.

This Congress also adopted a plan of government. It provided for a Provincial Council to consist of thirteen persons. In general, the Congress gave this council the power to do and transact all such matters and things as in its judgment were proper to strengthen, secure, and defend the colony; but its authority was not to extend to altering or suspending any act or resolution of the Congress.

The council organized at Johnston Courthouse, now Smithfield, October 18, 1775, with Cornelius Harnett as its first president. It carried on the government and conducted the war under the powers granted by the Congress.

The plan of government also provided for a Committee of Safety in each of the six districts into which North Carolina was then divided. Each district Committee of Safety con-

sisted of a president and twelve other members. These committees in their respective districts, under the control of the Provincial Council, were to direct the operations of the militia and exercise such powers of government as were delegated to them.

The affairs of the counties and towns were conducted by committees elected by the people. These committees were under the control of the district Committees of Safety and of the Provincial Council.

26. Fourth Provincial Congress.—The fourth Provincial Congress met at Halifax, April 4, 1776, with Samuel Johnston again as its president.

This Congress abolished the Provincial Council and existing district Committees of Safety, and created a body of thirteen persons called a Council of Safety. The government of the colony was entrusted to this council until the meeting of the next Congress.

This Congress, in the spirit which first openly manifested itself in Mecklenburg county, instructed its delegates in the Continental Congress to vote in favor of independence from Great Britain. It resolved, April 12, 1776, "That the delegates for this colony in the Continental Congress be empowered to concur with the delegates of the other colonies in declaring independence and forming foreign alliances, reserving to this colony the sole and exclusive right of forming a constitution and laws for this colony."

27. Fifth Provincial Congress.—The fifth Provincial Congress met at Halifax, November 12, 1776. The next day a committee was appointed to prepare a bill of rights and to

frame a constitution for the government of the state. The committee reported December 6th. After careful consideration and amendment, the constitution and declaration of rights of 1776 were adopted by the Congress, and so became the organic law of North Carolina. Under this law the people organized a permanent government.

PERMANENT GOVERNMENT

28. Officers Elected.—In this first permanent government established by the people after they broke away from British rule, both houses of the legislature were elected by them; the governor and other state officers and judges were elected by the legislature. Now, however, the governor and other state officers and the judges are elected by the people

29. Veto Power Withheld.—The power which the colonial governors had of proroguing, or adjourning, the legislature and of vetoing its acts has not been given to the governors since North Carolina became a state. In many other states of the Union the governors have the veto power. In North Carolina this power was used to uphold British tyranny, and on that account it has never been popular with our people.

30. Fundamental Principles.—The principles imbedded in this constitution for the protection of human rights still remain a part of our organic law. On the next two pages are given ten sections of its declaration of rights signed by Richard Caswell, president of the body which framed it and later elected by the general assembly as the first governor of North Carolina after it became a state.

1. "That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences."

2. "That all political power is vested in and derived from the people only."

3. "That the people have a right to assemble together, to consult for their common good, to instruct their representatives, and to apply to the legislature for redress of grievances."

4. "That the freedom of the press is one of the great bulwarks of liberty, and therefore ought never to be restrained."

5. "That every freeman restrained of his liberty, is entitled to a remedy to inquire into the lawfulness thereof, and to remove the same if unlawful, and that such remedy ought not to be denied or delayed."

6. "That no freeman ought to be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed or exiled, or in any manner destroyed or deprived of his life, liberty or property, but by the law of the land."

7. "That no freeman shall be convicted of any crime, but by the unanimous verdict of a jury of good and lawful men in open court, as heretofore used."

8. "That in all controversies of law respecting property, the ancient mode of trial by jury is one of the best securities of the people, and ought to remain sacred and inviolable."

9. "That perpetuities and monopolies are contrary to the genius of a free state, and ought not to be allowed."

The perpetuities referred to, if allowed, would enable property owners by will and other writings to direct to whom their property should go for an indefinite period after their death.

'Monopoly' means powers and privileges granted to one or more persons to the exclusion of others.

10. "That no hereditary emoluments, privileges, or honors, ought to be granted or conferred in this state."

Hereditary emoluments are those which may be inherited like property.

The meaning, force and effect of these provisions and of others equally important brought forward in our existing constitution are discussed more fully in these pages under their appropriate headings.

THOUGHT QUESTIONS

1. What English queen was the patron, or friend, of Sir Walter Raleigh?
2. What state derives its name from that sovereign?
3. What territory was embraced in the charter granted to Raleigh?
4. After what king were the Carolinas named?
5. After whom is the capital of North Carolina named?
6. What states and parts of states were embraced in the grant of land to the lords proprietors?
7. Why did Locke's plan of government fail?
8. Which branch of the colonial legislature resembled the House of Commons? Which resembled the House of Lords?
9. Name at least five states whose governors have the veto power.
10. What do you understand by "unalienable right?" by "redress of grievances?" by "freedom of the press?" by "freedom of speech?" by "freedom of assembly?"

CHAPTER III

FORMATION OF THE GENERAL GOVERNMENT

THE COLONIES UNITE

31. Causes of Union.—The general government was framed by the thirteen states, or colonies, as they were called until they became states by their secession from Great Britain. This government grew out of the necessity for combined action for mutual protection against common enemies. The greater the peril the closer the colonies drew together; finally they became united under one government in all matters and for all purposes which concerned their common defense and general welfare.

In the earlier days there were many reasons that impelled the colonies to act in concert. Sometimes the existence of a colony would be threatened by an Indian massacre, as was that of North Carolina in 1711 by the Tuscaroras, when South Carolina came to its assistance. Sometimes in the wars of Great Britain the enemies of that country laid waste our coasts and settlements. Sometimes the British government passed laws which oppressed and overtaxed the struggling colonists. These things and the trade relations between the colonies tended to bring the people of the various settlements into closer touch with one another and to pave the way for a more permanent alliance or union later. The several steps which led to this union are considered in the order in which they occurred.

32. New England Confederation.—As early as 1643 several of the small settlements in New England formed themselves into a confederation. Representatives were sent to a common council, which framed an agreement providing in cases of invasion or attack that each settlement should be assisted by the strength of all.

33. Albany Congress.—In 1754 delegates from several colonies met together at Albany, New York, to frame a plan of coöperation to secure protection against the French nation and its Indian allies. France and England, aided by their colonies, were then entering upon the gigantic struggle for the possession of North America. The particular plan offered by Franklin was not acceptable either to the British or to the Americans—it favored liberty and independence too much to suit the former, and too little to suit the latter. But the meeting had the effect of bringing about a better understanding and closer relations between the people of the different colonies.

34. Stamp Act Congress.—In 1765 representatives from nine colonies met at New York and drew up a statement expressing the American view of the taxing power of the British government. This document declared that there should be “no taxation without representation;” this meant that the Americans should determine through their own representatives, or lawmaking powers, how much they should be taxed and on what articles the taxes should be levied and collected. This convention was called the Stamp Act Congress, and its action resulted in the repeal of the stamp tax.

It was not long after this Congress adjourned before laws

were passed by the British Parliament authorizing new forms of oppression and levying more obnoxious taxes, including the "tea tax." The colonists complained, petitioned, and protested, but without avail. Some of them pledged themselves not to buy any goods upon which such taxes were levied. To punish the colonists for these things, the British government passed laws forbidding public assemblies, and requiring private families to furnish food and shelter to British troops. The colonies appointed Committees of Correspondence by means of which the information of each became common to all; thus they all became united in the purpose of preventing the British from taking away their rights and liberties.

35. First Continental Congress.—All the colonies, except Georgia, sent delegates to represent them in a convention which met at Philadelphia, September 5, 1774. This convention, as already stated, is known as the first Continental Congress. The delegates from North Carolina were William Hooper, Joseph Hewes, and Richard Caswell. It drew up a statement of the rights of Americans under the British government, of the wrongs they had suffered, and the remedies suggested; not the least of these remedies was that delegates from the colonies should meet again the next year.

36. Second Continental Congress.—A second convention met May 10, 1775, and it is known as the second Continental Congress. This Congress took measures to continue the war which had already practically begun by the battle of Lexington, which was fought on the 19th of April preceding. It provided for the formation of a continental army, elected

George Washington as commander-in-chief, provided for a postal service, authorized paper money, known as continental currency, and adopted the Declaration of Independence. It exercised such authority as was delegated to it by the colonial governments or such as it assumed by the consent or acquiescence of those governments.

37. Declaration of Independence.—The Declaration of Independence was adopted and published July 4, 1776. It was framed by a committee composed of Thomas Jefferson and others appointed by the Continental Congress. It is so nearly in the words penned by Jefferson that he is famed as its author.

The delegates from North Carolina who signed it were William Hooper, Joseph Hewes, and John Penn.

The Declaration of Independence is a statement of American rights and grievances—a platform or outline of American principles. Its concluding paragraph contains these words:

“We, therefore, the representatives of the United States of America, in general Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by authority of the good people of these colonies solemnly publish and declare, that these united colonies are, and of right ought to be, free and independent states * * * and that, as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do.”

38. Articles of Confederation.—In 1777 the Continental Congress adopted a plan of national government called the

Articles of Confederation. Under these articles, which formed the first federal constitution, the states were held together until after the Revolutionary War. This constitution, and the one framed in 1787 to take its place, will be considered in the next chapter.

CONTROL OF CONTINENTAL CONGRESS

39. Provincial Control.—The manner in which the provincial governments controlled their delegates to the Continental Congress is well illustrated by the instructions given to the North Carolina delegates by the Provincial Congress, which met at Hillsborough in August, 1775. A plan of government proposed for the United Colonies, called a "Plan of General Confederation," was being considered. After rejecting it as not suitable, or, in the language of that time, "not at present eligible," the Provincial Congress expressed itself as also of the opinion:

"That the delegates for this province ought to be instructed not to consent to any plan of confederation which may be offered in an ensuing Continental Congress, until the same shall be laid before and approved by the Provincial Congress."

At the time of this resolution the delegates from North Carolina had continued the same as in the first Continental Congress; but, on September 8, 1775, John Penn was appointed in place of Richard Caswell.

40. State Control.—The manner in which the delegates to the Continental Congress were controlled after the provinces became states is illustrated by an interesting example found

in the proceedings of the North Carolina general assembly which met at New Bern in 1777.

A constitution or plan of government for the United States, commonly called the "Articles of Confederation," had been sent to the different states for the consideration of their legislatures. The general assembly of North Carolina instructed its delegates in Congress to ratify at once certain sections which seemed to be necessary for carrying on the war. Other sections were also agreed to, one of which ought to be specially noted:

"That each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederacy expressly delegated to the United States in Congress assembled."

The legislature further resolved:

"That the remaining clauses, articles, and sections thereof, containing matters highly important and interesting to the future people of this state and involving what may very materially affect the internal interests and sovereign independence thereof and not being immediately essential to the success of the present war, ought not to be ratified until there shall be full time and leisure for materially and deliberately considering the same, and until upon such mature and deliberate consideration the same shall be approved."

It was desired that the people of the state might be fully informed as to the character of the proposed national government. Therefore the general assembly further resolved:

"That the public printer be authorized to print the Articles of Confederation of the United States and that he be obliged to send twelve copies to each county."

The general assembly which met at New Bern in April, 1778, instructed "the delegates of the state in congress to ratify and confirm on behalf of this said state the Articles of Confederation of the United States." This ratification and confirmation was executed or carried into effect, July 21, 1778, by delegates John Penn, John Williams, and Cornelius Harnett, the same being witnessed by their signatures.

THOUGHT QUESTIONS

1. Name the thirteen colonies that seceded from Great Britain.
2. What other acts of secession have occurred in the United States?
3. What brought on the Revolutionary War?
4. What was the Stamp Act?
5. What was the "tea tax?"
6. When and where was the first "tea party" held?
7. Tell what you know about the Mecklenburg Declaration.
8. Write the names of the signers of the Declaration of Independence.
9. Who was king of England when this declaration was adopted?
10. Where is the original copy of the Declaration of Independence?
11. How long were the Articles of Confederation the basis of our general government? What war was carried on during a part of that time?
12. What county in North Carolina is named after one of the signers of the Articles of Confederation?

CHAPTER IV

OUTLINE OF OUR STATE AND NATIONAL CONSTITUTIONS

THE FOUNDATIONS OF OUR LAW

41. Plan.—In the preceding pages some words and principles which are constantly met with in the study of government have been explained and illustrated, and the history and growth of our laws to a period where their main principles took definite form in well-considered constitutions have in brief been indicated. We come now to consider specially the means by which the powers of government are expressed and defined. These powers have to be defined and well understood so that the people may know when the government is being properly conducted and when it is acting or trying to act beyond, outside of, or contrary to its authority under the constitution.

A knowledge of fundamental law, which is embodied in what is known as a constitution, is the key which unlocks the science of government. On this account much space is given to our state and national constitutions—how they were framed, the meaning of their terms and phrases, and the manner in which government is conducted under and in accordance with them.

42. Meaning of 'Constitution.'—Literally the word 'constitution' signifies "a standing together." It is a set of principles by which a people are held together as a state or nation.

It implies union, harmony, endurance, strength. It is a permanent compact, usually written, by which the people of a state or nation unite to conduct their government. A compact is an agreement whether of men or of states, freely entered into by those who have a right to make it.

The government of the United States is the federal constitution in operation; the government of North Carolina is the state constitution in operation.

43. The Federal Principle.—When the citizens of several independent states act together under one government, their union is called a federal union. The word ‘federal’ carries with it the idea of treaty or agreement. The government of the United States is called a federal government because of the treaty or agreement between the states which formed and adopted it.

The term ‘federal’ is very popular with the great mass of liberty-loving Americans, because it preserves the idea that the United States government was made by an agreement between equal states and is continued by their consent. It is a noteworthy fact that in the War between the States the northern people called their government ‘federal,’ while the people of the South called theirs ‘confederate.’ The same fundamental idea is in both words, and both sections of the nation clung to that idea in the dire extremity of war. The Revolutionary War, also, was fought to a successful finish under a constitution which its framers affectionately termed The Articles of Confederation. This teaches us that the real strength and enduring qualities of our Union lie in the fact that the great body of the people believe it to be one of agreement and not of force; for that reason they give it the

voluntary support of freemen, not the enforced obedience of slaves.

Whether a compact be between states, as embodied in the constitution of the United States, or between individuals, as embodied in the constitution of North Carolina, states cannot be preferred above states nor individuals above individuals in the operation of law without violating the main principle of all just government. Favoritism, as it destroys harmony in families, would likewise destroy the unity of these states—our great “family of nations.”

44. Organic Law.—A constitution is called ‘organic law’ because under or by means of it the people organize so that they can act together permanently. It is called the fundamental law because upon it rest or out of it grow the laws enacted or passed by legislatures and the decisions and opinions rendered by courts. In North Carolina, for example, the legislature, or general assembly, as it is called in the constitution of the state, meets every ¹two years at ²Raleigh and enacts laws. These laws may be amended, or changed, by succeeding legislatures. Our state constitution, however, cannot be changed by the general assembly nor by the decisions and opinions of the courts. The people made it and they alone can alter or abolish it. Courts and legislatures must act in accordance with its provisions.

The same is also true of the constitution of the United States. Neither Congress nor the courts can change it. As the people of the several states made it, they alone can alter or amend it. The way in which the people of North Carolina may amend their constitution is provided in the instrument itself, and the way in which the people of the United States

can amend the federal constitution is likewise provided in that document. Speaking generally, therefore, a constitution in the United States, whether state or federal, may be said to be a body of laws so fixed and established by the people as not to be subject to repeal or amendment by the ordinary lawmaking powers. In other words no legislature can change the constitution of its state, nor can Congress change the constitution of the United States.

45. The Courts and the Laws.—The courts do not make laws. They direct and control, for the most part, the administration of law, its execution or operation upon particular cases. For instance, when a man commits a crime, a court presides over and directs his trial, determines what laws are applicable to his case, and prescribes the punishment if he is found guilty.

The courts also determine the meaning of the laws,—that is to say, they decide what the constitution or what an act of the legislature means as applied to any particular case which is being tried before them. A court is not ordinarily bound to decide the meaning of any law unless its decision is necessary in order to determine some one's right or duty under the law.

The courts also decide when the laws made by the legislature are in conflict with the constitution. In such case of conflict the constitution overrides or is superior to the acts of the legislature.

The decision of the highest or supreme court is ordinarily reached when it has to hear a case that has already been tried by lower courts; or, in other words, when an appeal to it from lower courts has been taken. A case is said to be finally

determined when neither side takes an appeal, or when upon appeal the highest court has given its final decision.

46. Failure of Provincial Government.—While North Carolina was a British Province—or at least from the time of the proprietary government to the time of the Revolutionary War—its organic law was the will of the British king and Parliament. The province had, indeed, before that war a sort of legislature; but its acts were subject to be changed or nullified by the British government. The province was three thousand miles from England, and the people were scattered through vast forests all the way from the sea to the region beyond the mountains. For these reasons the British government could not know their needs and best interests. The result was that a difference of opinion arose between these forest dwellers, our forefathers, and their rulers across the sea.

This difference widened as the Carolinians were more and more obliged to rely upon themselves for things they needed and for protection against the savages. It was sharply accented when at Wilmington, in 1765, the people rebelled against the stamp tax which they had no hand in assessing. It resulted in bloodshed when some inland farmers resisted Tryon at Alamance. It finally brought on the Revolution, when the thirteen colonies decided that the "Mother Country" was using the taxing power unjustly.

Civil war usually grows out of the struggle for the control of the power to "lay and collect" and to disburse taxes. "The love of money is the root of all evil." The power which controls the purse of nations ordinarily controls their swords. Profiting by experience, therefore, in later years the framers

of the existing federal constitution gave to Congress, the representative branch of the United States government, the power to "lay and collect taxes."

In colonial times this right was claimed by the people of the provinces through legislatures elected by them, but in its enforcement they were hindered because the powers of government were divided and because the king and Parliament claimed the right to nullify their laws and to make new ones. Only members of the assembly branch, or lower house, of the provincial legislature were elected by the people. The governor, his council, and the general officers of the colony were appointed by the British authority mainly to take care of British interests. The result was that the people demanded a government which represented them in all its departments.

47. Our First State Constitution.—In 1776 the people of North Carolina, through their representatives, or delegates, assembled at Halifax, "ordained and established" a constitution. This constitution, with the amendments since added and changes made, is that under which our state government is operated at this time. The title of their work is:

"The constitution or form of government agreed to and resolved upon by the representatives of the freemen of the state of North Carolina elected and chosen for that particular purpose in Congress assembled at Halifax the eighteenth day of December in the year of our Lord one thousand seven hundred and seventy-six."

The word 'Congress' is now used to designate the national legislature; 'convention' and 'constitutional convention' are the terms now applied to an assembly elected and met together to make or amend the organic law.

48. The People the Source of Power.—In their ‘declaration of rights’ the framers of this constitution took care to lay down as their first principle: “That all political power is vested in and derived from the people only.” If England had admitted this proposition, there would have been no Revolutionary War.

Again, in 1868, when the constitution was remodeled, the same idea is preserved in its very first article: “All political power is vested in and derived from the people; all government, of right, originates from them, is founded upon their will only, and is established for the good of the whole.”

Of similar import is another section in the same article: “The people of the state have the sole inherent and exclusive right * * * of abolishing their constitution and form of government whenever it shall be necessary for their safety and happiness.” An inherent right in the people is one which naturally belongs to them; it is the gift of God and is not acquired from others.

49. First Federal Constitution.—The first constitution of the United States is commonly called the Articles of Confederation. It was adopted by the Continental Congress at Philadelphia, November 17, 1777. It was ratified or accepted by the states acting separately one after another through their respective delegates in Congress, who were given the power to do so by their state legislatures. In 1781 it was finally accepted by the last,—the state of Maryland.

After being ratified by a state, the constitution appears to have been binding on that state and to have been recognized as a part of the laws governing its people in their federal relations. Before it was accepted by the states, the delegates in

Congress exercised such power as was given them by their respective states or such as the Congress undertook or assumed to exercise with the authority, consent, or acquiescence of the states. The general government had but little well-defined authority. Even after the adoption of the Articles of Confederation, it depended mainly for success upon the common consent and the common interests of the people and upon the necessity of united action, which had been caused by British oppression.

50. Defects in the Articles of Confederation.—The Articles of Confederation was the constitution under which the states finally organized the general government which drove the British from our shores. This constitution was not considered binding enough to hold the states together after the pressure of war was removed.

It placed all the powers of government in the hands of the legislative branch or department. It contained no provision for the offices of president and vice-president of the United States, nor for the appointment of a supreme court. In it no power was delegated to the United States to enforce the collection of taxes. That power was kept by the states because they were afraid that if they gave it to the United States government they would thereby make that government so strong that it could crush each of them in detail. During the continuance of the war the danger of defeat operated to keep the states united and to make each of them contribute toward maintaining the continental army. But after the British had retreated from our shores and peace was proclaimed, the states kept the money of their people to support their own governments. Thus, the government organized

under the Articles of Confederation began to fail for lack of support.

This critical situation led to the formation of the second or existing constitution of the United States. Under it was established our present general government. This government is still operated under the powers which that constitution, with the amendments since added, confers.

THE TWO FEDERAL CONSTITUTIONS COMPARED

51. Convention of 1787.—In 1787 a convention of delegates chosen by the different states met at Philadelphia and elected George Washington to preside over their deliberations. The delegates from North Carolina were Alexander Martin, William R. Davie, Richard Dobbs Spaight, William Blount, and Hugh Williamson. The constitution which was framed by this convention differed from the Articles of Confederation in many particulars.

Among other differences it provided for: ¹the election of a president and vice-president of the United States; ²two houses of Congress instead of one, a senate and a house of representatives; ³a supreme court; ⁴taxing the people of the Union for the support of the general government instead of relying upon the state governments to collect such taxes.

All taxes now levied by the national government are duties (a tax on articles imported from foreign countries) and internal revenue (a tax on certain articles produced in this country, such as tobacco and spirituous liquors). Under the existing constitution these federal taxes were and are still collected by federal officers.

Under the Articles of Confederation the general government was supported by the state governments and had little to do with individuals except through those governments. Under the constitution of 1787, however, the national government exercised and still exercises its authority, through its own officers; it deals directly with or operates upon the individual citizens of the states.

52. Adoption of the Existing Federal Constitution.—The constitution of 1787, after being signed by the members of the convention which framed it, was sent to the states for their approval; it was to go into effect as soon as 'nine states should ratify or adopt it. Eleven states adopted it in less than a year after it had been framed. Under the provisions which it contained, these states elected George Washington as their president. He was the first president of the United States and was inaugurated at New York city, April 30, 1789.

By a convention which met at Hillsboro, July 21, 1788, North Carolina failed to adopt the federal constitution. After assurances had been given, however, that certain amendments limiting the power of the general government and protecting the liberties of the citizens and the rights of the states would be added, North Carolina withdrew all opposition and ratified it. This was done Nov. 21, 1789, by a convention, which met at Fayetteville. Our state was the last, save Rhode Island, finally to adopt this constitution, but it was among the first to ratify the ten amendments. These were added mainly to express with greater certainty the principles for which the Revolutionary War had been fought.

53. The Supreme Law of the Land.—In framing or amending a state constitution, care has to be taken that no part of it shall conflict with the constitution of the United States, "consistently" with which all powers of state government must be exercised. The constitution of the United States contains these words:

²"This constitution and the laws of the United States which shall be made in pursuance thereof; and all treaties made or which shall be made under the authority of the United States shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding."

The 'treaties' referred to are the agreements with foreign nations made by the president of the United States "by and with the advice and consent" of that branch of Congress known as the senate.

Another clause of the same article requires that the principal officers, state and national, ³"shall be bound by an oath or affirmation to support this constitution." In accordance with this provision, our state legislature has enacted the following law:

"All members of the general assembly and all officers who shall be elected or appointed to any office or place of trust or profit within the state shall agreeable to act of Congress take the following oath or affirmation: 'I, A. B., do solemnly swear (or affirm as the case may be) that I will support the constitution of the United States; so help me, God.'"

Those who object to using the words "I swear" are allowed to substitute the words "I affirm."

Our state constitution has also recognized, in the following words, the principle that the federal government is supreme:

“That every citizen of this state owes paramount allegiance to the constitution and government of the United States and that no law or ordinance of the state in contravention or subversion thereof can have any binding force.”

‘Paramount allegiance’ is illustrated when the constitution or laws or acts of a state government come in conflict with the constitution and lawful authority of the United States. In such a case the state laws and authority must yield. But it is well to note here that federal authority has no right to interfere with what properly belongs to state government.

54. Reserved Powers.—The constitution of the United States contains the following guaranty, which is considered more at length in subsequent chapters:

“The powers not delegated to the United States by the constitution nor prohibited by it to the states are reserved to the states respectively or to the people.”

The government of the United States though supreme when it may lawfully exercise its powers is one of limited authority,—that is, it possesses only the powers which are delegated or committed to it by the people of the states. On the other hand, the people of each state, each acting for itself separately, have all the authority which is not prohibited to them by the national constitution.

STATE AND FEDERAL GOVERNMENTS COMPARED

55. Brief View.—A brief view of the state and national constitutions, considering them together, will further serve to illustrate the general plan and purposes of each. Both pro-

vide for three departments of government: legislative, executive, and judicial. The first makes, the second executes, the third construes the laws; the first holds the purse, the second the sword, the third the scales of justice. Each of these departments or branches of government must be kept separate from the other, for each of them derives its power from the people. In North Carolina, this power is derived from the people of the state; in the Union, it is derived from the people of all the states. The legislative branch, however, has the power to impeach and remove officers of the other two branches (§91, §207).

56. Legislature and Congress.—In both state and national constitutions the legislative department is divided into two branches, a senate and a house of representatives. In the general assembly of the state there are fifty senators and one hundred and twenty representatives. In the Congress of the United States there are two senators for each state. The number of representatives which each state is entitled to elect is in proportion to its population (§199). North Carolina elects ten.

The members of the general assembly are elected by the people of the state. Members of the house of representatives in Congress are elected by the people of the several states. Each state is divided into congressional districts and each district is entitled to one representative.

Senators in Congress are elected by the legislatures of the several states. The term of each ¹senator is six years; that of a ²representative, two. The ³members of both branches of the North Carolina legislature hold their offices for a term of two years.

The ¹vice-president presides over the senate of the United States; the ²lieutenant governor, over that of North Carolina. The ³house of representatives in Congress and in the general assembly elects each its own presiding officer, and in both he is called the speaker. The senate in the general assembly and in Congress elects its presiding officer if the lieutenant governor in the one and the vice-president in the other cannot act. The presiding officer in each is called the president of the senate.

57. The Governor and the President.—Like the ⁴governor, the ⁵president holds his office for four years, and may succeed himself in office when his term expires. The governor, however, ⁶cannot be elected twice in succession. If the governor dies or is removed from office, or if for any other cause his office becomes vacant, he is succeeded by the ⁷lieutenant governor; the president under similar circumstances is ⁸succeeded by the vice-president. Both have the power to pardon criminals. The president has, but the governor has not, the veto power; in the exercise of this power the president may prevent a bill from becoming a law.

No person under thirty years of age can be governor or lieutenant governor; no person is eligible for president or vice-president who has not attained the age of thirty-five years.

The governor is elected by the voters of the state; the president, by electors chosen by the voters of each state.

58. Other Federal Officers.—The ⁹justices of the federal supreme court and the other United States judges are appointed by the president with the advice and consent of the senate. So likewise are the members of the president's

cabinet and the other ¹principal officers of the general government. But ²Congress may have the inferior officers of the federal government appointed in a different way.

The judges hold their ³offices for life or during good behavior. They can only be removed by impeachment—that is, they must be tried and found guilty by the United States senate upon charges or articles of impeachment, as they are called, preferred or presented by the house of representatives (§207). The other appointed officers of the United States hold their offices during the pleasure of the president except when it is otherwise provided by law. The president and vice-president and all other ⁴civil officers of the general government, are subject like the judges to removal by impeachment and for the same causes. The president has the power to remove all officers appointed by him except United States judges.

59. Other State Officers.—Under the government of North Carolina the ⁵judges are elected by the people. They hold their offices for a term of ⁶eight years. The legislature can remove them by impeachment for ⁷misbehavior in office or by ⁸concurrent resolution for mental or physical inability to discharge their duties. A concurrent resolution is one in which both houses concur or agree.

The ⁹governor and ¹⁰other state officers and all officers holding their offices under the constitution and laws of North Carolina are in like manner removable by impeachment (§91). But the judgment of the impeachment court does not extend beyond removal from office and disqualification to hold office.

Where the office is not provided for in the state consti-

tution but is merely created by statute, the general assembly may provide means of removal other than by impeachment or by concurrent resolution of both its branches (§92).

60. Vacancies in Office.—Both the governor and the president have power, the one by the state and the other by the federal constitution, to fill vacancies occurring in the principal offices of the executive and judicial departments of government—the ¹governor for the state, the ²president for the United States. A vacancy occurs when an officer dies, resigns, or is removed from office.

When a vacancy occurs in a ³legislative office, state or national, the person who fills it must be elected or chosen in the same manner as the officer whom he succeeds, except in the case of United States senator (§106). When this office becomes vacant during a recess of the legislature it is filled by an appointee of the ⁴governor. His appointee holds the office until the next meeting of the legislature, which then regularly fills the vacancy (§194).

61. Limited Powers.—The government of the United States is ⁵limited to the powers conferred on it by the states. Within these limits it is ⁶supreme; if any provision in a state constitution should be contrary to the constitution of the United States the latter would ⁷control. The main objects for forming the general government were: (1) to ⁸unite the states so they could act as one in matters of common concern, especially in dealing with ⁹foreign countries; (2) to regulate the relations between the ¹⁰states and settle their differences; (3) to pass laws governing the trade ¹¹between the citizens of different states. This trade is known as interstate commerce.

AMENDMENTS TO THE STATE CONSTITUTION

62. Methods of Amendment.—As the people of North Carolina made their constitution, they alone can amend it. The constitution itself provides methods of amendment.

The general assembly, by a three-fifths vote of the members of both houses, may order that a proposed amendment be submitted to a vote of the people at the next general election. The amendment is carried if a majority of the votes cast are in favor of its adoption.

Another method of changing the constitution is by a ¹convention of the people. Such a convention is composed of a body of men elected by the voters of the state for that special purpose. It must be called—that is, proposed and ordered by two-thirds of all the members of each house of the general assembly. Even then it is not allowed to assemble unless ²“a majority of the votes cast in a general election be in favor of said convention.” Once assembled, however, according to law, such a convention holds and exercises the full power of the people, and it may amend the constitution of the state, or abolish it and make a new one.

The framers of our constitution intended that it should not be too easily amended. The organic law in the state should not be changed or broken up by the mere passing whim of a popular majority. The will of the people is the highest power in the state, but it should be fairly and fully ascertained, and expressed in due form. There is hardly a principle in our fundamental law that it did not take the blood of heroes to establish and maintain. Let us therefore cherish the institutions of our fathers.

63. Constitutional Changes in 1776.—The first constitutional convention of North Carolina, better known as the Halifax Congress, expressed the will of the people as opposed to certain European ideas of government. Instead of having the governor and principal officers appointed by the king of England, as in colonial times, it was provided that they should be chosen by legislatures elected by the people. Instead of being taxed by the British Parliament, the people, through their representatives, declared that in future they alone would tax themselves. Instead of having to pay a tax to maintain a particular form of worship previously established by law, that tax was repealed. Since that time no person has been compelled by the government to make any contribution whatever to support any church or religious establishment.

64. Amendments of 1835.—In 1835 a constitutional convention met at Raleigh, where all such conventions have since been held. It amended the constitution made at Halifax. Among other things, it provided that the governor should no longer be chosen by the legislature, but should be elected directly by the people. His term of office, as well as the terms of the other officers of the executive department, was changed from one to two years; the legislature was required to be elected every ²two years instead of every year, as under our first constitution.

The constitution of 1776 provided that no person should be allowed to hold office who denied the truth of the Protestant religion; the new constitution changed the word "Protestant" to "Christian."

Under the first constitution each county had equal repre-

sentation in the senate and the house of commons; the constitution of 1835 fixed the number of senators at fifty, and provided that these should be chosen by districts. These districts were laid out, not according to population nor according to the size of the district, but according to the amount of taxes paid into the treasury of the state. The number of members of the house of commons was fixed at one hundred and twenty; the representation was according to population, except that each county, however small, was entitled to one representative.

Another important change in the constitution of 1835 was that 'borough' or town representation was abolished; as a consequence the towns of Edenton, New Bern, Wilmington, Salisbury, Hillsboro, and Halifax lost their representatives in the general assembly. They had each been previously entitled to one representative in the house of commons.

65. Amendment of 1857.—Up to 1857 only those who owned fifty acres of land could vote for a member of the senate. In that year this provision was abolished.

66. The Constitution of 1868.—In 1868 was held the convention which remodeled the constitution. In order to adapt it to the changes which had been brought about by the War between the States, many new features were introduced. It declared that the state should have no right to 'secede from the Union. It increased the governor's ²term of office to four years, and it also increased the terms of the other ³officers of the executive department; namely, the lieutenant governor, the secretary of state, the auditor, the treasurer, the superintendent of public instruction, and the attorney-gen-

eral. These last were now to be elected, like the governor, by the ¹people at the regular election held every four years. The judges of the ²supreme and superior courts, who had hitherto been appointed by the legislature, were now required to be elected by the people. Their terms were fixed at ³eight years; formerly they had held office for life or during good behavior.

The constitution of 1868, with some changes and amendments made since its adoption, is the organic law of North Carolina at this time.

67. Amendments of 1875.—In 1875 was held the last constitutional convention which has assembled in our state. Among the amendments adopted by this convention was one which provided that the compensation of ⁴members of the legislature should not exceed four dollars a day for sixty days and mileage of ten cents for every mile traveled in going to and returning from the place of meeting of the legislature; if the session extended beyond the sixty days, such additional service should be without pay. Before that amendment the legislature might hold its sessions as long as it chose and vote its members such compensation as it saw fit. It can still hold its ⁵sessions as long as it pleases, but its members can only receive pay for the regular sixty-day session and for twenty ⁶days more in case a special session is called (§80).

A very important and far-reaching change made by the convention of 1875 was to empower the legislature ⁷to put an end to township government in North Carolina. In the exercise of this power the legislature abolished the office and took away the authority of the township trustees, who had hitherto regulated the local affairs of each community. As

a result the township is now continued only as a mere division of the county without an organized government, though the legislature has the power to reestablish the old or create new township governments at any time.

68. Amendment of 1888.—In 1888 an amendment was adopted increasing the number of justices of the supreme court from three to five.

69. Amendment of 1900.—The last change in the state constitution was made by the 'suffrage amendment proposed by the general assembly in 1899 and ratified by the people in 1900. This amendment makes the requirement that (1) a person must pay his poll tax before he is allowed to vote, and (2) he must also know how to read and write, in English, any section of the constitution of the state. The second requirement, however, is not allowed to exclude from voting any person who had exercised that privilege before January 1, 1867—he is presumed to know his civic rights and duties by experience and observation; nor does this amendment exclude the lineal descendant of such voter,—it is presumed that such descendant will have been so instructed that he will properly exercise the obligations of citizenship.

AMENDMENTS TO THE NATIONAL CONSTITUTION

70. Methods of Amendment.—As the ²people of the several states acting together made the national constitution, they alone have the power to change or ³amend it. The constitution itself provides how it may be ⁴amended. When an amendment proposed by Congress is agreed to by two-thirds

of both houses thereof, it is submitted to each state. It becomes a part of the constitution after it has been ratified or adopted, by three-fourths of the states. It is ratified by a state either through its legislature or through a convention of its people, as may be determined by Congress.

The constitution further provides that a 'convention of the people of the United States shall likewise have power to propose amendments; but such a convention can only be called together by Congress upon the application of the legislature of two-thirds of the states. Amendments proposed by a convention are adopted in the same manner and by the same proportion of states as amendments proposed by Congress.

71. The First Ten Amendments.—In 1789 Congress proposed the first ten amendments. North Carolina and two other states adopted them in that year, and by December 15, 1791, ten states, the required three-fourths, had ratified them. The main purpose of these amendments was further to restrict the powers of the general government and to protect the rights of the states and the liberties of the citizens. Except for the understanding that they would be adopted, the constitution itself would not have been ratified by nine states, the number required to put it into effect.

72. The Eleventh Amendment.—At the time the constitution was adopted, it was as well understood that a state could not be sued by the citizens of another state or country as that it could not be sued by its own citizens; so it was not thought necessary to express this principle in words.

In the year 1792, however, the supreme court of the United States surprised the people by deciding that a citizen of South

Carolina could 'sue in a federal court the sovereign state of Georgia. As a result of this decision Congress, in 1794, proposed the eleventh amendment, and in 1798 the president announced that it had been ratified. It provided that a state could not be sued by a citizen of another state or by a subject of any foreign country. States, however, can sue each other, for they have equal dignity.

73. The Twelfth Amendment.—The twelfth amendment, which was adopted in 1804, provided that the electors—men chosen by each state for the purpose of electing a president and a vice-president—should cast their votes directly for president and vice-president. Before that time they voted only for president; the person who received the next highest number of votes for president was declared vice-president.

74. Thirteenth, Fourteenth, and Fifteenth Amendments.—The next three amendments to the federal constitution, and the last which the states have ratified, were adopted as a result of the War between the States.

The thirteenth abolished slavery and involuntary servitude except as a punishment for crime.

By the fourteenth amendment "all persons born or naturalized in the United States" were made citizens of the United States. Among other things this amendment undertakes to secure to all citizens of the United States equal privileges and protection of law.

The fifteenth says: "The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude."

75. Amendment by Custom.—In one particular the people may be said to have changed the purpose and the effect of the constitution without following the method of amendment as prescribed therein. They vote, indeed, for electors to choose the president and vice-president; but in practice and according to a well-established custom, these electors make no choice of their own will. They cast their ballots for the nominees of their respective parties.

76. Amendment by Construction.—The courts, too, whose duty it is to construe, or tell the meaning of the laws, are sometimes accused of finding meanings which have the same effect as amendments. The people, however, may correct any errors of the courts by adopting amendments in the manner prescribed by law; they have also the power of electing the men of their choice as judges under the state government and of electing a chief executive of the United States who will appoint the best and wisest men as federal judges. Moreover, they may change their constitution so that such officers may be elected by the people.

77. First Principles of Free Government.—The end and purpose of free or popular government is nowhere better stated than in that great charter of our rights and liberties called the Declaration of Independence. It is not law, but its sentiments are in such full accord with the instincts of freemen, that its words and phrases are made the foundation of laws and constitutions in all free countries. Its fundamental principle is set forth in these words:

“That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among

these are life, liberty, and the pursuit of happiness; that to secure these rights governments are established among men; that when a form of government becomes destructive of these ends it is the right of the people to alter or abolish it, and to institute a new government, laying its foundations on such principles, and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness."

THOUGHT QUESTIONS

1. When are laws passed by congress unconstitutional? When are those passed by the general assembly unconstitutional?
2. What great document signed by King John in 1215 forms the basis of the fundamental laws of Great Britain?
3. Who granted the authority under which the colonists were governed before the revolution?
4. What were the documents that conferred this authority called?
5. Through whom were our constitutions framed, and what was the source their authority?
6. How does a constitution differ from a charter in regard to the source of authority?
7. What states, in ratifying the constitution, reserved the right to secede from the Union?
8. When was slavery abolished in the United States?
9. What effect has the amendment of 1900 produced on the cause of education in North Carolina?
10. Wherein are the people of this country freer than any other people?
11. What do you understand by the doctrine of states rights?

GOVERNMENT IN OPERATION

CHAPTER V

LEGISLATIVE DEPARTMENT OF THE GOVERNMENT OF NORTH CAROLINA

ORGANIZATION AND STRUCTURE

78. Departments Separate.—The constitution requires the three great departments of government to be kept ¹separate and distinct,—that is, each must be allowed to act in its own sphere, free from the control or interference of the others. The courts indeed are allowed to say in deciding a case that an act of the legislature is unconstitutional, but this is because it is made their duty to interpret the meaning of the laws. If officers go beyond their duty, or encroach upon the authority or integrity of the other departments, or attempt to usurp powers not granted, or act corruptly, they are subject to ²impeachment by the legislature (§91). But to prevent hasty or tyrannous action, one house must bring the ³charges,—that is, draw up and present the articles of impeachment—and the other house must ⁴decide upon their propriety and truth; and two-thirds of its members must vote “guilty” before there can be conviction.

79. Time of Meeting.—⁵The constitution requires that the senate and house of representatives shall meet biennially on the first Wednesday after the first Monday in January next after their election; and, when assembled, shall be called the general assembly. Neither house shall proceed upon public business unless a majority of all its members are actually present.

80. Extra Session.—¹“The governor shall have power on extraordinary occasions, by and with the advice of the council of state [§109], to convene the general assembly in extra session by his proclamation, stating therein the purpose or purposes for which they are thus convened.”

81. Qualifications and Compensation of Members.—The ²qualifications of members for each house are similar but not identical. A senator must be twenty-five years of age; while a representative need only be twenty-one. A senator must have been a citizen of the state two years and a resident of his district one year next preceding his election; while a representative, in addition to being a qualified voter, must have resided in his county for one year immediately preceding his election. ³The qualifications of a voter are considered elsewhere (§69), though it may be here remarked that a person qualified to vote for a senator can also vote for a representative.

For compensation of members of the general assembly see §67.

82. Houses Distinct.—The two houses are distinct,—that is, they sit as separate bodies and in separate chambers. Each house elects its own officers, and acts independently in the passage of bills and resolutions. The purpose of this is to prevent hasty, ill-considered, and covert legislation. The eyes of the people are upon their lawmakers, and what each house does is usually published before it is acted on by the other.

83. Proceedings Public.—Publicity is a great guarantee of fidelity and efficiency. For this reason the constitution says the courts shall be ‘open so that the people may look in

upon their proceedings. In ancient times courts were held at the gates of the city where every one must pass, and the legislature is required to meet in 'Raleigh, the capital of the state, where its actions cannot be hid.

There are a few matters, which for reasons of public policy are considered in secret session; as, for example, when the senate passes upon the nominations of the governor, it closes its doors and goes into what is called executive session. This is done in order that it may the more freely discuss the characters and qualifications of those nominated by him for important offices and places of trust.

84. Joint Session.—There are several exceptions to the requirement that the two houses sit separately. One is in the election of United States ²senator; when they have failed by separate action to elect, they hold a joint session. The reason for the joint session is probably to insure certainty and speed in making a choice, for it is against public policy for the state to remain long unrepresented in such an important body as the United States senate. Another exception is when the election returns for the officers of the executive department are opened and published in the presence of the two houses. The two houses also sit in joint session when there is a contested election.

85. Apportionment of Senators.—To determine how the senators and representatives in the general assembly are apportioned is a mere matter of calculation under the rule laid down in the constitution. The ³census, taken every ten years under direction of Congress, determines the population of the state and of the several counties as well. After each census

the state is 'redistricted,—that is, laid off anew into senatorial districts. Each of the fifty senators represents as nearly as may be one-fiftieth of the population, excluding aliens and Indians not taxed. This fiftieth is called the ratio of apportionment, or ratio of representation, and is now about thirty-six thousand, which is approximately the number of inhabitants each senator should represent. But, inasmuch as a county cannot be ²divided for the purpose of forming districts unless it has population enough for two senators, several districts have a population considerably larger than the ratio of apportionment. As yet, however, no county in the state has population enough for two senators.

86. Apportionment of Representatives.—The house is composed of one hundred and twenty members. Each county is entitled to one representative, no matter how small its population. As there are one hundred counties, this provides for one hundred members. The remaining twenty members are apportioned among the larger counties according to the population as nearly as may be.

87. Constitutional Regulations.—(a) **METHOD OF VOTING.**—“In the election of all officers, whose appointment shall be conferred upon the general assembly by the constitution, the vote shall be *viva voce*.” *Viva voce* means “with the living voice”—by roll call.

(b) **VACANCIES.**—“If vacancies shall occur in the general assembly by death, resignation, or otherwise, writs of election shall be issued by the governor under such regulations as may be prescribed by law.” A writ of election is a written order issued by the governor requiring that an election be held.

(c) RECORD OF PROCEEDINGS.—¹“Each house shall keep a journal [or record] of its proceedings, which shall be printed and made public immediately after the adjournment of the general assembly.”

(d) PROTEST.—²“Any member of either house may dissent from, and protest against, any act or resolve, which he may think injurious to the public or to any individual, and have the reasons of his dissent entered on the journal.”

(e) SEPARATE AND JOINT ACTION.—³“Each house shall be the judge of the qualifications and election of its own members, shall sit upon its own adjournment from day to day, prepare bills to be passed into laws; and the two houses may also jointly adjourn to any future day, or other place.”

(f) HOW BILLS BECOME LAWS.—⁴“All bills and resolutions of a legislative nature shall be read three times in each house, before they pass into laws; and shall be signed by the presiding officer of both houses.”

(g) OATH OF OFFICE.—⁵“Each member of the general assembly, before taking his seat, shall take an oath or affirmation that he will support the constitution and laws of the United States, and the constitution of the state of North Carolina, and will faithfully discharge his duty as a member of the senate or house of representatives.”

(h) YEAS AND NAYS.—⁶“Upon motion made and seconded in either house, by one-fifth of the members present, the yeas and nays upon any question shall be taken and entered upon the journals.”

“Yeas and nays” is the phrase applied to a list of members of a legislative body voting respectively for and against a question.

88. Presiding Officers.—The officer who ordinarily presides over the senate is the ¹lieutenant governor of the state, who is *ex officio*,—that is, by virtue of his office, ²president of the senate. In his absence or when he shall exercise the duties of governor, the ³senate chooses its president from among its members. Each ⁴house elects its own officers. The presiding officer of the house of representatives is called the ⁵speaker, who is the official spokesman or mouth-piece of the body. He is chosen from among the members of the house. An idea of his duties may be gained from the following rules of the house of representatives (session 1907) relating to the duties of the speaker.

89. Duties of the Speaker.—"It shall be the duty of the speaker to have the sessions of this house opened with prayer in accordance with the order of this body.

"He shall take the chair every day precisely at the hour to which the house on the preceding day adjourned, shall immediately call the members to order and on the appearance of a quorum cause the journal of the preceding day to be read."

As used in the preceding paragraph, "a quorum" means a majority of the house.

"He shall preserve order and decorum, may speak to points of order in preference to other members, rising from his seat for that purpose, and shall decide questions of order, subject to an appeal to the house by any member, on which appeal no member shall speak more than once, unless by leave of the house."

A 'point of order' means a question raised by a member as to whether the method of procedure to which he objects is in accordance with the rules of the house.

“He shall rise to put a question, but may state it sitting.

“Questions shall be put in this form, namely: ‘Those in favor (as the question may be) will say aye,’ and after the affirmative voice has been expressed, ‘Those opposed will say no.’ Upon a call for a division, the speaker shall count; if required, he shall appoint tellers.

“The speaker shall have a general direction of the hall. He shall have a right to name any member to perform the duties of the chair; but substitution shall not extend beyond one day, except in case of sickness or by leave of the house.

“All committees shall be appointed by the speaker, unless otherwise specially ordered by the house.

“In all elections the speaker may vote. In all other cases he may exercise his right to vote, or he may reserve his right until there is a tie.

“All acts, addresses, and resolutions shall be signed by the speaker, and all warrants and subpoenas issued by order of the house shall be under his hand and seal, attested by the clerk.”

A subpoena is a writ requiring a person named therein to appear at a certain time and place.

POWERS AND RESTRICTIONS

90. Elections by Legislature.—A most important ¹power of the legislature, if it should ever come to be exercised, is that of electing the governor and other officers of the executive department in cases where there may be a tie. Of no less importance is the ²power to decide contested elections,—that is, to declare who is elected when two or more persons claim

to have received the highest number of votes for the office of governor or other office in the executive department.

In such cases the judgment of the general assembly is declared by ¹joint ballot.

91. Impeachment and Removal from Office.—Another very great power of the legislature is that of ²impeaching certain officers of the government. An officer liable to impeachment must be arraigned before the senate upon charges—articles of impeachment as they are called—preferred, or framed, by the house of representatives. No person impeached can be convicted except upon the concurrence of two-thirds of the senators present and a majority is necessary for a quorum. Such conviction, however, does not extend beyond removal from office and disqualification to hold office.

The following causes, or charges, are sufficient, when proven, to warrant conviction: (1) corruption in office; (2) habitual drunkenness; (3) intoxication while in the exercise of office; (4) drunkenness in any public place; (5) mental or physical incompetence to discharge the duties of office; (6) any criminal matter the conviction whereof would tend to bring the office into public contempt.

The manner in which the legislature exercises the power of impeachment and removal is indicated in the following sections of the constitution:

³“The house of representatives solely shall have the power of impeaching. No person shall be convicted without the concurrence of two-thirds of the senators present. When the governor is impeached the chief justice shall preside.”

⁴“The court for the trial of impeachments shall be the senate. A majority of the members shall be necessary to a quo-

rum, and the judgment shall not extend beyond removal from and disqualification to hold office in this state; but the party shall be liable to indictment and punishment according to law."

92. Offices Created by Statute.—The legislature has the power to create by statute offices not established by the constitution; it may adopt any method of election or appointment to such offices, and of filling vacancies therein, as it sees fit.

Though all civil officers of the state may be removed by impeachment, the legislature may, and usually does, provide more direct means for vacating offices created by statute. It may give the governor the power of suspending or removing an officer from such office; or it may abolish his office and so legislate him out of it.

For a long time, it was contended and held by our state courts that a man had such a property in his office that the appointment thereto was in the nature of a contract, the obligations of which could not be impaired at the will of the lawmakers. At last, after much discussion and litigation, it was held and probably forever settled (as it had already been by the ²United States courts) that the public interests and the requirements of the public service outweighed any interests which an officer might have in his salary, fees, or honors.

93. Suspension of Laws.—A very great power of the legislature is its check upon the executive department. Legislative consent is required to ³"suspend the laws of the state or the execution thereof;" though history is not wanting in examples where this power was assumed by the executive

without authority. The 'laws' here referred to, which the legislature has power to suspend, repeal, or amend are the statutes. All three of the departments or branches of government combined cannot suspend, repeal, or amend a single clause of the constitution, unless the power is given in the instrument itself.

94. Affecting the Courts.—Of no less importance is the power to create ¹courts inferior to the supreme court (§151). Any powers of our state judiciary which do not belong to the supreme court may be ²allotted and distributed among the courts established by the constitution or which may be established by law, in such manner as the legislature may deem best. The legislature may also ³determine the methods of proceeding in the exercise of the powers of all the courts inferior to the supreme court, as far as the same may be done without conflict with the provisions of the constitution.

The supreme court is not necessarily subject, even in regard to its rules of procedure, to the control of the legislature. Indeed, the judges of the superior courts and other judicial officers cannot be directed in their judgments and decisions of law by either the legislative or the executive departments. The courts in the rightful exercise of the powers allotted them must be unhampered. Even the authority that regulates their methods of procedure, and often determines what shall be proofs and evidence of facts in the cases before them, cannot legislate them out of the powers and duties which rightfully belong to them as a coördinate branch of the government.

95. The Taxing Power.—The 'taxing power is most carefully guarded and closely watched because it comes home to

the people. One of the principal rules in its exercise is that no more should be collected from the people than is required for the expenses of the government economically administered. Another good rule is that all who are able should be taxpayers, and that they should pay in proportion to the amount of property owned by them.

96. Special Legislation Forbidden.—The policy of our law is against the legislature's dealing with particular cases respecting individual rights—that is the business of the courts. For example, it cannot "grant 'divorce or secure alimony in any individual case," or ²"alter the name of any person," or ³"restore to the rights of citizenship any person convicted of an infamous crime." But it has power to "pass general laws regulating" such matters as affect all whose rights and interests are involved in the same way. The purpose of the constitution is to give to all "equal protection of the laws." A well-known maxim of the law is, "equality is equity." For this and many reasons of public policy, the passage of what are called private laws is discouraged.

97. Forming Corporations.—The time of the general assembly should be devoted to the consideration of matters of general interest. On this account our law provides that the secretary of state, under certain restrictions, shall grant charters to companies desiring to incorporate (§115).

An important section of the constitution relating to this subject reads as follows:

⁵"Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the legislature, the

object of the corporations cannot be attained under general laws. All general laws and special acts, passed pursuant to this section, may be altered from time to time or repealed."

98. Salaries and Fees.—Another legislative power is that of prescribing and regulating the salaries and fees of all officers acting under the state government. On this subject the constitution says "salaries of the judges shall not be diminished during their continuance in office." The compensation of the officers of the executive department "shall neither be increased nor diminished during the time for which they shall have been elected and the said officers shall receive no other emolument or allowance whatever."

99. Other Powers and Restrictions.—There are other powers of the legislative department, and other restrictions and limitations laid upon its authority by the federal and state constitutions; but enough has been said to give a fair idea of the operation of this branch of our government. Further light is continually thrown upon the subject by the consideration of other topics relating thereto. The manner in which the general assembly exercises its powers in regard to the educational, charitable, and penal institutions of the state, will be considered in another chapter.

THOUGHT QUESTIONS

1. What is the number of your senatorial district? What territory does it include?
2. Who is your state senator? Where does he live?
3. By whom are you represented in the lower house of the general assembly?

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4. How does a bill introduced in the legislature become a law?
 5. What is the name of the publication in which the public laws passed by the general assembly are printed?
 6. Are all of the laws included in this publication? If not, where may the laws not included therein be found?
 7. Does ignorance of the law excuse one for violating it?
 8. Name several offices in your county (or city) that were created by statute.
 9. What officers other than a presiding officer has each branch of the legislature?
 10. When and for what purpose was the last extra session of the legislature held?
 11. If the legislature is in session, follow its proceedings in the newspapers. What important measures are under discussion?

CHAPTER VI

EXECUTIVE DEPARTMENT OF THE GOVERNMENT OF NORTH CAROLINA

ORGANIZATION AND STRUCTURE

100. Executive Officers.—The ¹governor, the lieutenant governor, the secretary of state, the auditor, the treasurer, the superintendent of public instruction, and the attorney-general constitute the officers of the executive department specially described as such in the constitution. It is well to note in this connection, however, that any officer, other than a judicial one, who helps to execute or administer the laws is an executive officer, whether he be ²civil or military, whether he be local (for a particular part of the state), or general (for the whole state), or special (for special duties in different parts of the state).

101. Term of Office.—The governor, who is also called the chief executive of the state, and the other officers of the executive department are elected for a ³term of four years. This term is authorized by the constitution to ⁴begin on the first day of January next following their election and to ⁵continue until their successors are elected and qualified. In practice, however, and by the authority of the ⁶constitution, their term does not begin until they take the oath of office.

102. Inauguration and Installation.—The time for the inauguration of the governor and the installation of the other officers of the executive department is set for some day in January

later than the first Wednesday after the first Monday, when the session of the general assembly begins. One purpose of this is that the governor may take his oath of office in the presence of the two houses, and that the term of so important an officer may be entered upon with appropriate ceremonies.

Another reason for the postponement of the beginning of the terms of the officers of the executive department until after the first day of January is that the election returns may be opened by the speaker of the house in the presence of the general assembly in joint session assembled, and the results of the election officially ascertained and declared. Any contest between two or more persons claiming the same office is settled by joint ballot of both houses. In case of a tie, a governor or other officer of the executive department is also elected by joint ballot.

THE GOVERNOR

103. General Powers and Restrictions.—The governor is the supervisor of all executive officers, exercising his powers, however, under the limitations of the constitution and in the manner directed by law. Over the officers of the judicial and legislative departments he exercises no control, as the three departments of government “ought to be forever separate and distinct from each other.”

The restrictions upon the governor's powers reside in the legislature as far as the constitution authorizes. The clauses relating to such restrictions, though addressed to that body may also be considered as commands to the governor.

104. Residence.—It is the duty of the governor to ¹reside at the seat of government which, it is declared, shall remain at ²Raleigh.

105. Messages.—He is required to give the general assembly from time to time ³“information of the affairs of the state, and ⁴recommend to their consideration such measures as he shall deem expedient.” The papers or documents in which such information and recommendations are made are called the “Messages of the Governor.” With his biennial message to the general assembly at each ⁵regular session, he transmits the ⁶reports of the officers of the executive department and of the state institutions. These reports are ⁷required to be made to him at least five days previous to the beginning of such session.

106. Appointments to Office.—The ⁸governor, with the advice and consent of the senate, is authorized to appoint all officers whose offices are established by the constitution, and whose appointments are not ⁹otherwise provided for. But now (since the amendments to the constitution of 1875) that instrument “otherwise” provides for the election or appointment of all the ¹⁰civil officers mentioned therein except in cases of vacancy, which are considered elsewhere.

In case the legislature makes no provision for filling an office created by statute (§92), the appointing power rests with the governor. “He shall see that all offices are filled and the duties thereof performed, or in default thereof apply such remedy as the law allows, and if the remedy is imperfect acquaint the general assembly therewith.”

The governor fills all ¹vacancies in the principal judicial offices, and all the vacancies in the ²executive department below the office of lieutenant governor, who must in all cases be elected by the people. The officers appointed to fill these vacancies hold their offices until the next regular election for members of the general assembly at which time officers are elected to take their places for the remainder of the unexpired term. In case of vacancy, however, for mere temporary disability, such as a spell of sickness, the officer resumes his office when his disability ceases.

Under the federal ³constitution the governor has the power also to appoint a senator to represent North Carolina in Congress when a vacancy occurs when the legislature is not in session. This constitution also says: "When ⁴vacancies happen in the representation from any state, the executive thereof shall issue writs of election to fill such vacancies." So the people of a congressional district elect a successor to fill the unexpired term of a member of the house of representatives in Congress, in case of vacancy.

107. Commander-in-chief.—The governor is ⁵commander-in-chief of the militia (citizen soldiers of the state), except when they are called into the service of the United States. He has ⁶power to call them out "to execute the law, suppress riots or insurrection, and repel invasion." As their commander he may ⁷appoint and remove their officers while they are in the service of the state, except in so far as his authority may be in part controlled by the general assembly, which has the ⁸power to organize and arm the militia and make laws for their government.

108. Pardoning Power.—The governor has the 'power also to grant pardons and reprieves, and to commute sentences. There are several kinds of pardons. An absolute pardon frees the criminal of his punishment altogether without any condition attached. A conditional pardon makes the performance of some special act necessary to its validity. A general pardon extends to a number or class of lawbreakers, and is called amnesty. A reprieve simply postpones the punishment for some reasons satisfactory to the pardoning power. A commutation changes the punishment to something less than has been pronounced by the judge.

109. Council of State.—²“The secretary of state, auditor, treasurer, and superintendent of public instruction shall constitute, *ex officio*, the council of state, who shall advise the governor in the execution of his office, any three of whom shall constitute a quorum; their advice and proceedings in this capacity shall be entered in a journal, to be kept for this purpose exclusively, and signed by the members present, from any part of which any member may enter his dissent; and such journal shall be placed before the general assembly when called for by either house. The attorney-general shall be, *ex officio*, the legal adviser of the executive department.”

110. Private Secretary.—The governor appoints his private secretary, who enters in books kept for that purpose, all official and important letters written by and to the governor.

The private secretary acts as secretary to the council of state, to the board of public buildings and grounds, and to the state board of internal improvements. He may be, and usually is, appointed military secretary to the governor with the rank of colonel.

THE LIEUTENANT GOVERNOR

111. When Governor.—In case the governor is 'impeached, or fails to qualify, or is absent from the state, or unable to discharge the duties of his office; or, if the office becomes vacant, the powers, the duties, and emoluments thereof devolve upon the lieutenant governor. He continues to fill the office until the disability of the governor ceases, or another governor is ²elected and qualified. If the disability is permanent, as in the case of death, resignation, or impeachment, the lieutenant governor fills the unexpired term,—that is, he holds the office until a new governor is elected and qualified.

When a lieutenant governor who fills the unexpired term of the governor is elected to succeed himself, he occupies this office for more than ³"four years in a period of eight," which is forbidden by the constitution in all other cases. To illustrate: Lieutenant Governor Jarvis, who succeeded Governor Vance, when the latter resigned to become United States senator, was himself elected governor to succeed himself.

112. President of the Senate.—The ordinary duties of the lieutenant governor are exercised by him as president of the senate. As such he receives the same ⁴'pay as the speaker of the house of representatives (six dollars a day and mileage), ⁵"and he shall receive no other compensation except when he is acting as governor."

113. Succession.—When the duties of governor devolve upon the lieutenant governor, the senate elects its presiding officer. In case both governor and lieutenant governor are

disqualified, this elected president of the senate, succeeds to the duties, powers, and emoluments of governor. He holds the office until the next general election, unless the disabilities or disqualifications sooner cease or are removed.

THE SECRETARY OF STATE

114. Special Duties.—The secretary of state is a member of the council of state, of the state board of education, of the board of public buildings and grounds, and a trustee of the state library.

115. General Duties.—(a) **CUSTODIAN OF LAWS AND DOCUMENTS.**—It is his duty to attend every session of the legislature for the purpose of receiving bills which shall have become laws. He shall determine which are public and which are private laws. Private laws may be defined to be those which operate on particular persons or private concerns.

He is required to have the laws printed, bound, and preserved. He shall have prepared for publication indexes and captions to the acts and resolutions ratified by the general assembly. He shall have distributed, when printed, copies of the laws, the senate and house journals, the acts of Congress received at his office, and the reports of the supreme court.

He is required to attend the governor for the purpose of receiving documents which have passed the great seal,—that is, those official documents issued by the governor to which the great seal of state must be attached. He must make all necessary provisions for the arrangement and pre-

servation of these documents, and of all the books, records, deeds, parchments, maps, and papers which may hereafter be placed by law in his hand for safekeeping.

(b) PREPARES CERTIFICATES OF ELECTION.—It is the duty of the secretary of state to prepare a certificate for each person declared elected by the state board of canvassers. He shall record the result of elections in a book to be called the "election book." He must furnish to the county officers such books and blanks as are necessary to secure the permanent rolls of registered voters in the counties, and shall preserve in his office these rolls when sent in by the county officers.

(c) ISSUES LAND GRANTS.—The secretary of state issues grants for vacant and unappropriated lands which are subject to entry. An entry is made by presenting to the entry-taker of the county where the land lies a writing signed by the claimant describing the land which he proposes to enter; thereupon, if no legal impediment is found, the entry-taker issues his warrant requiring the county surveyor to make a survey and plat of the land.

Upon receipt of the warrant, survey, and plat, the secretary of state issues a grant to the claimant. The warrant, plat, and survey are filed in his office as permanent records subject to the inspection of the public.

All the land in North Carolina now owned by individuals, companies, or corporations was originally granted either by the lords proprietors, by the crown of Great Britain, or by the state.

(d) GRANTS CHARTERS TO CORPORATIONS.—Through the secretary of state, all corporations formed for business or charitable purposes under the general laws of the state are chartered.

This includes all corporations, except those chartered by special acts of the legislature. A charter is granted by special act, when, in the judgment of the legislature, the objects of such corporation cannot be attained under the general laws.

Any three or more persons desiring to form a corporation for the conduct of any lawful business may enter into an agreement in writing, setting forth the name, objects, and location of the proposed corporation and other matters required by law. This agreement, which is called the "certificate of incorporation" is signed by the persons forming the association or a majority of them, proved or acknowledged before a properly qualified officer, and filed in the office of the secretary of state. If found to be in accordance with law, the secretary of state causes it to be recorded in his office in a book for that purpose, known as the "corporation book."

The secretary of state, upon the payment of the organization tax and fees, certifies under his official seal a copy of the said certificate of incorporation and the probates (proofs) thereof. The certified copy is then recorded in the office of the clerk of the superior court of the county in which is located the corporation's principal place of business. The charter is the certificate of incorporation duly acknowledged and filed with the secretary of state, as required by law.

"The persons so associated, their successors and their assigns, shall, from the date of such filing in said office of the secretary of state, be and constitute a body corporate by the name set forth in such certificate of incorporation, subject to amendment and dissolution in the manner provided by law."

(e) RECEIVES REPORTS.—To the secretary of state reports are made by the officers of all corporations authorized to

transact business in the state, except those required by law to report to the corporation commission or to the insurance commission. The four classes of corporations that do not report to the secretary of state are:

Public service corporations, such as railroads, steamboats, telegraph and telephone companies; (2) such financial institutions as banks and loan and trust companies; (3) insurance companies and such orders and associations as do insurance business; (4) building and loan associations.

(f) MISCELLANEOUS DUTIES.—He is required to register all trade-marks; certify to accounts for work or labor done about the capitol; purchase stationery for the general assembly, for the supreme court, and for the public library; and contract for lights and fuel for the general assembly, for the public offices, and for the governor's dwelling. He is required to compile and publish annually a complete list, in alphabetical order, of existing domestic corporations, and of the original and amended certificates of incorporation filed during the preceding year, together with the location of the principal office or place of business of each.

THE AUDITOR

116. Special Duties.—The auditor is a member of the council of state, of the state board of education, and of the state board of pensions.

117. General Duties.—Among his principal duties are the following:

To superintend the fiscal (financial or monetary) concerns of the state.

To report to the governor annually and to the general assembly at the beginning of each biennial session a complete statement of the revenues and of the public expenditures during the preceding fiscal year. (This fiscal year ends on the thirtieth day of November.)

To examine and settle the accounts of all persons indebted to the state, and to certify the amount of the balance to the treasurer.

To direct and superintend the collection of all moneys due to the state.

To require all persons who have received any moneys belonging to the state and have not accounted therefor, to settle their accounts.

To examine and issue warrants for the payment of the claims of all persons to whom the state is indebted where there is sufficient provision of law for such payment. Where there is not sufficient provision, he reports the fact to the general assembly.

To transmit to the clerks of the superior courts of the several counties a correct list of the pensioners, with their post offices, as allowed by the state board of pensions.

To prepare and transmit to the counties printed forms to be used in assessing and listing property for taxation, and blank forms or lists for the use of taxpayers in reporting their property for taxation.

Banks, banking associations, and saving institutions (whether state or national) are required to list annually with the auditor for taxation all shares of capital stock whether held by residents or non-residents.

Capital stock is defined to be the sum fixed by the corporate charter as the amount paid in or to be paid in by the stockholders for the prosecution of the business of the corporation. The capital stock is divided into equal amounts called shares, for which the law provides that every stockholder shall have a certificate.

Corporations, joint stock companies, and limited partnerships (the last two of which resemble corporations) are required, unless it is otherwise provided by law, to make a report annually to the auditor, showing their financial condition and the manner of conducting their business.

THE TREASURER

118. Special Duties.—The treasurer is a member of the council of state, of the state board of education, and of the board of public buildings and grounds.

119. General Duties.—(a) **RECEIVES AND PAYS MONEYS AND ISSUES BONDS.**—He receives all moneys that are paid into the treasury of the state, and pays all warrants (money demands) legally drawn on him by the auditor of the state. He signs and issues all state bonds authorized by the general assembly.

Bonds are printed or written obligations under seal. They evidence or show the indebtedness of the state and the interest accruing thereon. There are two classes, registered bonds and coupon bonds. The interest on the coupon bonds is evidenced by the coupons. A coupon is attached to the bond and is clipped therefrom when the interest it evidences becomes due. It is then presented to the treasurer for payment. The coupon, like the bond from which it is clipped, is negotiable,—

that is, it is payable to the bearer. The treasurer is justified in presuming that the holder is the owner unless the contrary is made to appear. The registered bonds have no coupons thereon, and can be transferred only in the office of the treasurer by the treasurer himself. The interest on registered bonds is paid by a check direct from his office. Neither class of bonds requires a warrant from the auditor to authorize their payment, or for the payment of the interest thereon.

(b) REPORTS TO GOVERNOR AND GENERAL ASSEMBLY.—The treasurer must report to the governor annually, and to the general assembly at the beginning of each biennial session the exact balance in the treasury to the credit of the state. He is required to make a summary of the receipts and payments during the preceding fiscal year, and as far as practicable, he shall give an account of the same down to the end of the calendar year.

(c) OTHER DUTIES.—It is the treasurer's duty to submit to the general assembly a complete act for raising revenue (taxes); or to suggest what amendments and changes should be made in the law in force.

He also submits to the general assembly the amount of the appropriations which will be required for the support of the different institutions of the state.

He is also to construe the Revenue and Machinery Acts (the statutes for collecting taxes). His decisions are under the law *prima facie* correct,—that is, presumed to be correct, unless the contrary is shown—and they protect the officers affected thereby.

He must sue for and collect all money and property of the state held by any person without authority of law.

(d) **TREASURER OF STATE INSTITUTIONS.**—The treasurer is also *ex officio* treasurer of the department of agriculture; of the North Carolina College of Agriculture and Mechanic Arts; of the North Carolina School for the Deaf and Dumb, at Morganton; of the North Carolina Institution for the Deaf, Dumb, and Blind, at Raleigh; of the State Hospitals for the Insane; of the State's Prison; and of the Soldiers' Home.

THE SUPERINTENDENT OF PUBLIC INSTRUCTION

120. Special Duties.—The superintendent of public instruction is a member of the council of state and of the state board of education. He is chairman of the board of directors of the State Normal and Industrial College and of the board of examiners of the East Carolina Teachers' Training School. He is also a trustee of the state library.

121. General Duties.—The superintendent of public instruction directs the operation of the system of public schools, and enforces the school law. The county boards of education, and all other school officers in the several counties, are required to obey his instructions and to accept his construction of the school law. It is his duty to correspond with leading educators in other states and to investigate their systems of public schools. As far as practicable, he shall render the results of his investigations available for the information and aid of the legislature and the state board of education.

It is his duty to acquaint himself with the peculiar educational wants of the several sections of the state and to take all proper means to supply such wants by counseling with county boards of education and county superintendents.

In the discharge of his duties he delivers lectures and addresses before teachers' institutes and public assemblies on subjects relating to public schools and school work.

It is his duty to make a report biennially to the governor. This report shall contain information and statistics in reference to the public schools, and such recommendations for improvement in the school laws as may occur to him.

He is required to sign all requisitions on the auditor for the payment of money out of the state treasury for school purposes.

THE ATTORNEY-GENERAL

122. Special Duties.—The attorney-general is a member of the state board of education, of the board of pensions, and of the board of public buildings and grounds. Though not a member of the council of state, he sits with it as legal adviser.

123. General Duties.—It is the duty of the attorney-general to defend all actions in the supreme court in which the state shall be interested or is a party; and, when requested by the governor or by either branch of the general assembly, to appear for the state in any other court or tribunal in any cause or matter, civil or criminal, in which the state may be a party or have an interest.

At the request of the governor, secretary of state, treasurer, corporation commissioner, insurance commissioner, or superintendent of public instruction, he is required to prosecute and defend all suits relating to matters connected with their respective departments. In other words, he is *ex officio* the legal adviser of the executive department.

It is also the duty of the attorney general:

To represent all state institutions, including the state's

prison, whenever requested to do so by the official heads of any such institutions.

To consult with and advise the solicitors (the state's prosecuting attorneys in the superior courts), when requested by them, in all matters pertaining to the duties of their office.

To give, when required, his opinion upon all questions of law submitted to him by the general assembly, or by either branch thereof, or by the governor, or any other state officer.

To pay into the treasury all moneys received for the state immediately after the receipt thereof.

BOARDS AND DEPARTMENTS

124. State Board of Education.—"The governor, lieutenant governor, secretary of state, treasurer, auditor, superintendent of public instruction, and attorney-general shall constitute a state board of education."

²"The governor shall be president, and the superintendent of public instruction shall be secretary of the board of education."

³"The board of education shall succeed to all the powers and trusts of the president and directors of the literary fund of North Carolina, and shall have full power to legislate and make all needful rules and regulations in relation to free public schools and the educational fund of the state; but all acts, rules, and regulations of said board may be altered, amended, or repealed by the general assembly, and when so altered, amended, or repealed, they shall not be reenacted by the board."

125. Department of Agriculture.—Important aids to the executive department, not specifically mentioned in the con-

stitution, have been added by the legislature. One of these is the commissioner of agriculture and immigration. He is elected at the general election for other state officers and his term of office is four years. He is *ex officio* a member and chairman of the board of agriculture, which comprises ten other members appointed by the governor by and with the consent of the senate.

In coöperation with the board of agriculture he is charged with certain duties relating to the encouragement and protection of agriculture. Among these duties may be mentioned: (1) the inspection of fertilizers, and the giving of information in regard to their use; (2) the investigation of the ravages of insects; (3) experiments directed to the introduction and fostering of new agricultural and horticultural industries; (4) the investigation of the subject of drainage and irrigation; (5) the supervision of all measures for the propagation and culture of fish in the rivers and inland waters of the state; (6) the holding of institutes for the instruction of farmers in agriculture and in the use of fertilizers; (7) the inducement of capital and immigration by sending out information relative to the advantages of soil and climate, natural resources, and industrial opportunities of the state.

126. The Insurance Department.—This department was formed by the general assembly in 1899. Prior to that time the supervision of insurance companies was in the hands of the secretary of state. The officer now in charge of it is known as the insurance commissioner. He represents the state in all of its dealings with insurance companies and all associations and orders which do insurance business. He has also the supervision of building and loan associations.

It is his duty:

To pass upon all applications for licenses made by companies under the supervision of his department; to decide whether licenses should be issued to permit a company to do business in North Carolina; to supervise them and see that every licensed company complies with the laws, and if any fail to do so to revoke the license of the same.

To collect all licenses, fees, and taxes due the state by the companies and associations doing business under his department.

To look into all violations of the insurance laws and hear the complaints made by citizens of the state against any company under his department; and, if necessary in order to protect the rights of the citizens, to institute suits in court.

To collect reports of all fires in the state; to investigate all suspicious cases of fire, and to have the persons suspected of incendiarism (burning property unlawfully) prosecuted in the courts whenever the evidence justifies such action.

To see that the law regulating the erection and inspection of buildings is observed.

To keep all state property insured, and to inspect annually all state institutions and state buildings, with a view of protecting them and their inmates against fire.

127. Bureau of Labor and Printing.—The commissioner of labor and printing has charge of the bureau of labor and printing established by the legislature and located at the capital. He is elected by the people at the general election for state offices, and holds his office for four years. He is aided by an assistant who must be a practical printer. The assistant may act as commissioner in the absence of that officer.

The duties of the commissioner of labor and printing are to collect and collate (compare and arrange) information and statistics concerning:

(a) *Labor*—its condition, needs, methods, earnings, and relations with capital.

(b) *Industries*—mining, manufacturing and milling—their location, capacity, products, and money invested.

(c) *Water-powers*.

(d) *Farm lands and farming*—trucking, dairying, and the character and quantity of farm products.

He is further required to discharge the duties of mine inspector. In this capacity he examines mines and machinery with a view to ascertaining their condition and security.

It is his duty to supervise the public printing and binding, and, with the aid of his assistant, to examine and pass upon the quality of the work and the accounts rendered for the same.

128. Board of Internal Improvements.—The board of internal improvements is composed of the governor, *ex officio* president, and two other members, appointed biennially by him with the advice and consent of the senate. The private secretary of the governor is *ex officio* secretary of the board.

The board has charge of the state's interest in all railroads, canals, and other works of internal improvement, and of all public and state institutions, except the higher educational institutions that are not also charitable.

The governor may require a member of the board of internal improvements to investigate the affairs of any railroad, turnpike, canal or other public improvement; also the affairs of the state hospital or other institution in which the state has an interest, and the official conduct of any official thereof.

The board may require every superintendent or other chief officer of every institution (charitable, penal, or educational) in which the state has or owns an interest, except the higher educational institutions which are not also charitable, to make a written report of the affairs of his institution.

The board is required to keep a record of its proceedings and make report biennially to the general assembly of the condition of all public or state institutions and buildings under its supervision, as well as of all railroads, canals or other works of internal improvement in which the state has an interest.

129. Board of Public Charities.—The board of public charities consists of five members elected by the legislature. They hold office for two years.

Their duties are:

To investigate and supervise the whole system of the charitable and penal institutions of the state.

To inquire into the general condition of the state as affected by crime, vagrancy, and pauperism.

To give special attention to the causes of insanity, idiocy, degeneracy, and deformity.

They have power:

To visit and investigate the condition of jails and almshouses and inquire into the health, comfort, and associations of the prisoners.

To cause insane persons confined in any almshouse or other place to be conveyed to the proper state hospital for the insane.

To require and receive information from superintendents of the charitable and penal institutions concerning the condition of the institutions and the inmates under their charge.

To receive from the boards of commissioners of the several counties the information they are required by law to furnish in regard to the number and condition of the inmates of the poorhouses and prisons together with the number of paupers and deaf, dumb, blind, idiotic, and insane persons not in a hospital, school, or almshouse.

They are required by the constitution to report annually to the governor upon the condition of the penal and charitable institutions of the state, with the supervision of which they are intrusted.

They appoint a secretary to keep a record of their proceedings and to assist them in the discharge of their duties.

130. Historical Commission.—The legislature of 1903 established the historical commission, which consists of five commissioners and a secretary. The principal duties of the commission are to preserve, transcribe, and publish valuable documents and records relating to the history of North Carolina.

THOUGHT QUESTIONS

1. Give the names of those who hold the executive offices mentioned in the constitution of North Carolina.
2. Which of these officers have served more than one term?
3. Describe the great seal of North Carolina.
4. In what part of the state is the greater part of the "unappropriated lands?"
5. Give the name, object, and location of some corporation with which you are familiar.
6. Name some of the advantages and some of the disadvantages of a corporation over a partnership.
7. What is the name of the commissioner of agriculture and immigration? commissioner of insurance? commissioner of labor and printing?
8. What rate of interest do most of the state bonds of North Carolina bear?

CHAPTER VII

JUDICIAL DEPARTMENT OF THE GOVERNMENT OF NORTH CAROLINA

STRUCTURE, POWERS, AND JURISDICTION

131. Courts and Judicial Power.—The judicial power of the state is vested in: (1) a court for the trial of impeachments, which is the senate branch of the legislature; (2) a supreme court; (3) the superior courts; (4) courts of justices of the peace; (5) such other inferior courts as may be established by the lawmaking power.

The judicial power is that portion of the sovereign authority of the people which they have delegated to the courts or permitted them to exercise.

A distinguishing feature of the courts is that they declare what the law is. They cannot make law—that is a legislative function; but they have the right and it is their duty to construe or tell the meaning of law. This they do in a particular case on trial, or in some matter legally brought before them which they are required to hear and decide.

132. Jurisdiction.—In the division of the judicial power that portion of it which is given to any court is called its jurisdiction. This is the authority which enables a court to try suits and to hear and decide cases and questions which come before it. Such authority is given by law and can only be exercised within the limits allowed by law.

Jurisdiction is allotted to the courts according to the purposes for which they are organized or established. The lower or inferior courts are allowed to try only small cases—such as involve disputes about property of little value and offenses which are punishable with slight punishment. Other courts have wider jurisdiction,—that is, they may try cases where high crimes or large amounts of property are involved.

Some courts can only try cases begun in them; while others may also take cognizance of cases which come to them by way of appeal and try them over again or examine into the trials first had and decide them as the law prescribes. Courts which can try cases over, or hear appeals, are said to have appellate jurisdiction. Courts in which the case is begun or originated are said to have original jurisdiction.

Four of the five kinds of courts provided for in the constitution and above enumerated are courts of ordinary jurisdiction. They have power to try persons accused of ordinary violations of the criminal law and to punish such as are lawfully convicted. They also try actions for debts and money demands and cases involving disputes about property. The court which the constitution first names is one of extraordinary jurisdiction. This is only organized for a special purpose and to try a particular case of extraordinary importance.

We now consider the courts in the order in which they are named.

COURT OF IMPEACHMENT

133. Senate as a Court.—The senate sitting as a 'court of impeachment acts only in cases where some officer liable to impeachment has been arraigned before it on a charge or char-

ges preferred by the house of representatives. In such cases the house may be said to act in the capacity of a grand jury making a grand inquest (an investigation or inquiry) for the state at large and also in the capacity of a public prosecutor upon charges—articles of impeachment, as they are called—which it has framed.

The offenses for which an officer may be impeached and the method of procedure have already been considered (§91).

THE SUPREME COURT

134. Judges.—The 'supreme court consists of five members, the chief justice and four associate justices. They are elected by the qualified voters of the state and hold their offices for a term of eight years.

135. Judicial Power.—A very large portion of the judicial power is exercised by the supreme court. It is the court of appeal or last resort, the highest court of ordinary jurisdiction in the state, the head of our judicial system as a coördinate branch of the state government.

136. Business and Procedure.—While there are a few matters of rare occurrence which may be originated in the supreme court and heard for the first time, the vast bulk of its business is done in reviewing and correcting the trials and judgments of the courts below it.

There is no jury in this court to determine facts nor grand jury to bring charges against those accused of crime. There are no summonses or writs to commence suits, and witnesses do not go there to testify. No criminal is brought there to be tried. The cases are heard and considered upon briefs or

printed arguments filed by the lawyers in behalf of the parties they represent; though the lawyers usually also make speeches or oral arguments to the court.

137. Appellate Jurisdiction.—The supreme court does not in a strict sense try cases—it hears appeals. It reads and reviews the records or history of trials of cases held in the superior courts, for all appeals come to it from those courts no matter where the trials of the cases appealed were first or originally had. If error is found upon such review or examination, it is corrected, or ordered to be corrected, or the case is sent back to the superior court for a new trial with instructions as to how the new trial shall be conducted.

A new trial is granted when the judge in the superior court has misdirected the jury, or omitted to give proper instruction; or when the jury was unlawfully constituted or improperly influenced; or when the evidence submitted was such as the jury ought not to have considered.

If the supreme court finds that the case has been properly tried in the superior court the decision of the latter court stands and is affirmed. That is the end of the litigation except in those cases in which the constitution and laws of the United States are involved. In such cases appeal may be still further had to the supreme court of the United States.

138. Original Jurisdiction.—Original jurisdiction, as we have already seen, is that which enables the court to take cognizance of or try a case in the first instance without waiting for the circumlocution of an appeal.

The only original jurisdiction of the supreme court arises where there is a claim against the state. In taking such original cognizance of claims against the state the supreme court

considers only such cases as involve questions of law; its judgments are only recommendatory—to be adopted if the legislature sees fit.

If there are any disputes about facts—issues of fact, as they are called—as well as questions or issues of law, it is provided that the issues of fact shall be first determined by a jury in the superior court. If only facts are in dispute and there are no questions of law the proper tribunal for relief is the legislature.

139. Officers.—The supreme court is assisted in the discharge of its duties by its officers. Among these the first to be mentioned is the attorney-general, who in addition to being the legal adviser of the executive department of state government, represents the state in the criminal cases which are appealed to and argued before the supreme court. The general assembly of 1907 provided for an assistant attorney-general.

The clerk of the supreme court is appointed by the court and holds his office for eight years. He is the custodian of its records, and keeps a record of its proceedings from day to day. He “certifies down,” or sends to the superior courts, duly authenticated copies of its decisions and judgments for the guidance and instruction of these courts.

The marshal of the supreme court is also appointed by the court. He keeps order in court, and is the librarian of the law library provided by the state for the use of its members and of the lawyers who attend upon its sessions. His general duties are in the nature of a sheriff in the superior courts. (§186).

The reporter of the supreme court is employed by it to publish its decisions and opinions in volumes called the “Supreme Court Reports.”

THE SUPERIOR COURT

140. An Interesting Court.—The most interesting part of our judicial system is the superior court. There the judge delivers his charge to the grand jury, instructing them in their duties and in the laws of the state which relate to the punishment and prevention of crime. There the lawyers examine and cross-examine the witnesses, and make speeches to the juries. There the judge pronounces the sentence of the law upon persons convicted of crime.

141. Judges and Judicial Districts.—The judges are ¹elected by the people. They hold their office for a term of eight years. They must reside in the district for which they are elected. There are sixteen judges, one for each of the sixteen circuits or judicial ²districts. The districts are composed of several adjoining counties.

The judges in going around holding the courts in the various counties are said to ride their circuits. These ridings rotate so that a judge holds the courts of one district for six months, and then goes on to another until finally he has gone through them all.

142. Terms of Court.—A term of court usually lasts from one to three weeks according to the size of the county and the number of cases which may be tried. The smaller counties—those having the smallest population—usually have only two terms a year; the larger ones have more, as the legislature may prescribe. Special terms may be ordered by the governor, and with his consent judges may exchange courts; a judge whose regular time it is to hold court in one county

may hold it in another, and the judge whose place he takes may in turn hold court in his place.

143. Appellate Jurisdiction.—In the matter of appellate jurisdiction the law is:

1“The superior courts shall have appellate jurisdiction of all issues of law or of fact determined by a clerk of the superior court or justice of the peace, and of all appeals from inferior courts for error assigned in matters of law as provided by law.”

Error is assigned or pointed out in the statement of the case on appeal sent up to the superior court. The cases which may be appealed are those originally tried by clerks of the superior court, justices of the peace, mayors of cities and towns, and by other inferior courts.

144. Original Jurisdiction.—In the matter of original jurisdiction the law is:

2“The superior court shall have original jurisdiction of the civil actions whereof exclusive original jurisdiction is not given to some other court, and of all criminal actions in which the punishment may exceed a fine of fifty dollars or imprisonment for thirty days; and of all such affrays as shall be committed within one mile of the place where and during the time such court is being held.”

The superior court has jurisdiction to try those who commit an affray within the limit above defined, even though it might have no jurisdiction to try them if their offense had been committed outside of that limit. An affray may be defined as the fighting of two or more persons in some public place to the terror of the people.

Continuing, the statute further allows to the superior court

original jurisdiction "of all offenses whereof exclusive original jurisdiction is given to justices of the peace, if some justice of the peace shall not within twelve months after the commission of the offense proceed to take official cognizance thereof." If no justice of the peace will bring the offender to justice within a year after the offense is committed, the superior court may assume jurisdiction.

145. Procedure in Court.—Actions in court are either civil or criminal.

Civil actions are brought to settle disputes about property, or to collect debts, or to recover damages. They are commenced by summons commanding the defendant, or person sued, to appear in court and answer the complaint of the plaintiff, or person who brings the suit. The complaint sets forth his cause of action. The plaintiff and the defendant are called the parties to the suit—the persons in interest. The complaint and answer and other papers of like nature filed by the parties are called the pleadings. The matters of fact in dispute are called the issues or issues of fact.

A criminal action is commenced by a warrant ordering the arrest of some person or persons accused of crime or violation of the criminal law. The accused person is called the defendant. The written accusation against him describing his crime or offense is made by a grand jury, and is called an indictment. His denial of guilt is called his plea of not guilty. The indictment and his plea raise an issue of fact which must be tried by a jury.

146. Jury Trial.—Trial by jury is the ancient and constitutional method of trying and settling issues of fact. It is

a great aid to the courts in the administration of justice both in civil and criminal cases.

The jury, or petit jury, as it is often called, is composed of twelve good and lawful men. They reach their conclusion, or verdict, after hearing the testimony of the witnesses, the charge or instructions of the judge, and in most cases the speeches of the lawyers. The verdict of the jury must be unanimous. When there is disagreement, there is another trial.

147. The Grand Jury.—The grand jury must consist of as many as twelve men, though there may be eighteen. It examines the witnesses against the accused and ascertains if there is good ground or probable cause to put the defendant on trial. If so, it finds what is called a true bill of indictment. It requires the consent of as many as twelve of the grand jurors to make the indictment valid.

The grand jury also visits the jails and poorhouses of the county to ascertain the condition of the same and to find out whether the inmates are being cared for as required by law.

148. Selection of Jury.—The manner of selecting the jury, whether petit or grand jury, is always a matter of vital interest. The county commissioners (§183) of each county make out a list of its good and lawful citizens,—those who have paid their taxes, are of good moral character, and of sufficient intelligence. Their names are written on small scrolls of paper resembling ballots, one name on each scroll. These scrolls are then placed in a box, which has two divisions marked 1 and 2. Whenever a court is about to be held, a child, not more than ten years old, draws out of division No. 1 of the box a number

of scrolls equal to the number of men required to make up the jury; the scrolls are then placed in division No. 2.

The sheriff summons the persons whose names appear on these scrolls, and they constitute the jury for the term of court. If there are criminal cases to be tried, the first eighteen men drawn out of the box constitute the grand jury; the others are the regular petit jury for the trial of both criminal and civil cases.

The drawing out of division No. 1, and the depositing in division No. 2, is continued from time to time for each succeeding term of the court until the scrolls are all in division No. 2. They are then replaced in division No. 1 and the drawing continues as before. The county commissioners revise the jury list from time to time; as persons qualified for jury duty die or become otherwise disqualified, other persons who have become qualified are added to the list.

Twelve persons are necessary to constitute a jury for the trial of all cases, though a less number is sometimes allowed by consent.

149. Trial by Referee.—The judge of the superior court may designate some person to try certain cases, but not so as to preclude the parties from their right to jury trial. The person so designated is called a referee, who becomes for the purposes of his special duty an officer of the court. The referee makes to the court a report of his findings and conclusions, and when that report is passed upon by the judge, so much of it as he adopts or approves becomes the findings of the court, both in law and in fact.

A referee may be appointed by the consent of the parties to the suit; and he may be given by their consent power to finally

settle and determine both the law and the facts in controversy—in which case he would be better styled an ‘arbitrator.’

150. Officers.—The ¹solicitor is a lawyer elected by the people of each judicial district for a term of four years. His principal duties are to draw up or frame bills of indictment against persons accused of crime and to prosecute them on behalf of the state upon indictments found.

The duties of the clerk of the court and of the sheriff are described in §185 and §186.

OTHER COURTS

151. Inferior Courts.—The constitution gives to the general assembly power to establish other ²courts inferior to the supreme and superior courts, and to allot and distribute to them such powers and jurisdiction, within constitutional limits, as it sees fit. From the decision of these inferior courts the legislature has power to provide a proper system of appeals.

³“The presiding officers and clerks thereof shall be elected in such manner as the general assembly may from time to time prescribe and they shall hold their offices for a term not exceeding eight years.”

152. Special Courts.—The constitution also requires the general assembly “to provide for the establishment of ⁴special courts for the trial of misdemeanors in cities and towns where the same may be necessary.”

Such courts are the mayors of cities and incorporated towns. Their election or appointment is usually provided for in the charters of incorporation—the acts of the general assembly

prescribing how particular towns and cities shall be governed (§181).

The jurisdiction of such special courts—also called in the law inferior courts—is usually set forth in the charters.

The general law also provides that “the mayor of every city and incorporated town....., within the corporate limits of his city or town, shall have the jurisdiction of a justice of the peace in all criminal matters arising under the laws of the state or under the ordinances of such city or town.”

153. Justices of the Peace.—¹Justices of the peace, in their respective counties, try (1) that class of civil actions which involve demands for small debts and property of little value and (2) that class of criminal actions, called petty misdemeanors, which involve only slight punishment.

They try all cases of contract or promise to pay money where the sum demanded does not exceed two hundred dollars.

They may try certain other civil actions where the value of the property in controversy or the amount claimed for damages does not exceed fifty dollars. Such causes of action are called torts—wrongs or injuries to persons.

They try criminal cases arising within their counties the punishment of which fixed by law cannot exceed a fine of fifty dollars or imprisonment for thirty days.

154. Justice's Power to Cause Arrest.—The justice of the peace may cause arrest and may imprison for offenses which he cannot try. When a serious crime has been committed, he issues his warrant usually upon the affidavit, or sworn complaint, of some one who knows about it; the sheriff, constable, or other duly authorized officer takes the warrant and upon the authority thereof arrests the person accused.

If upon what is called a preliminary hearing, the justice finds there is probable cause for believing the accused guilty, he commits him to jail unless he can give written security or bail for his appearance at a court, designated in the writing, which has jurisdiction of the offense.

THE CORPORATION COMMISSION

155. Organization.—Superadded to our system of courts is the corporation commission, created by an act of the general assembly, which provides that it shall be a court of record. This commission, or court, consists of three commissioners, elected by the qualified voters of the state in the same manner as other state officers. Their term of office is six years.

The court organizes by the election of one of the commissioners as chairman. They appoint a clerk who must be an expert accountant, experienced in railroad statistics and transportation rates. The commissioners and clerk are forbidden to hold any stock or have any interest in any corporation under the supervision of the commission.

156. Supervisory Powers.—The corporation commission has general control and supervision of all railroad, street railway, steamboat, canal, express, and sleeping car companies or corporations; of all companies or corporations engaged in the carrying of freight or passengers; of all telegraph and telephone companies; of all public and private banks; and of all loan and trust companies or corporations doing business in this state. It has such powers as are necessary to carry into effect the provisions of the laws of the state regulating such companies.

157. Power to Make Rates and Regulations.—The corporation commission is authorized to make reasonable and just freight, passenger, and express rates for railroads, street railways, steamboat, canal, and express companies and all other transportation companies or corporations engaged in the carriage of freight, express, or passengers, and for telegraph and telephone companies.

It is likewise authorized to make reasonable and just rules and regulations to prevent the giving, paying, or receiving of any rebate or bonus, directly or indirectly, and to prevent misleading or deceiving the public in any manner as to the real rates charged for freight, express, or passengers.

The commission is authorized to make rules for the handling of freight; and it may require the building of depots. It may hear and adjust complaints of all kinds relating to the management of railroads in the state.

158. Powers in Regard to Taxation.—The corporation commission is a board of appraisers and assessors for all the railroads and other transportation companies and other corporations exercising the right of eminent domain—the right to take and use private lands for public purposes.

It is also a state tax commission, having and exercising general supervision over the tax-listers and tax-assessing officers of the state.

159. Supervision of Banks.—The commission has supervision over the private and savings banks of the state, and authority to appoint bank examiners. It is their duty to examine the various banks and report the results of their examinations to the commission.

THOUGHT QUESTIONS

1. Who is the chief justice of North Carolina?
2. What is the number of your judicial district?
3. What territory does it include?
4. When and by whom was the last term of the superior court held in your county?
5. Give an example of a civil action; of a criminal action.
6. Did the last grand jury in your county find any true bills of indictment?
If so, mention one case.
7. What is the name of the solicitor for your district?
8. Who is chairman of the corporation commission?
9. Give the arguments in favor of a long term for judges. Should they be elected by the people or appointed by the governor?
10. Name a special court. Name another kind of inferior court.
11. How does the corporation commission differ from an ordinary court?

CHAPTER VIII

AIDS TO THE GOVERNMENT OF NORTH CAROLINA

THE PUBLIC SCHOOL SYSTEM

160. Right to Education.—"The people have the right to the privilege of education and it is the duty of the state to guard and maintain that right." "Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."

The general assembly is required to provide by taxation and otherwise for a system of public schools, in which tuition must be free to all the children from six to twenty-one years of age.

161. State Board of Education.—The members of the state board of education are the governor, lieutenant governor, secretary of state, treasurer, auditor, superintendent of public instruction, and the attorney-general. The governor is the president, the superintendent of public instruction is secretary, and the treasurer of the state is treasurer of the board. The board is authorized to loan the literary fund to the county boards of education to build schoolhouses; it also selects textbooks for use in the public schools of the state. It has the power to make all necessary rules and regulations for the government of the schools and the management of the state educational fund.

162. Superintendent of Public Instruction.—The state superintendent of public instruction is elected for a term of four years. It is his duty to direct the work of the school system and to enforce the school law. All other school officers act under his instructions.

163. County Board of Education.—The county board of education is appointed by the general assembly. It is composed of three men in each county. They divide the townships into school districts, have charge of the building of all new schoolhouses, and with the county superintendent make rules for the management of the schools. They may also provide for teachers' institutes.

164. County Superintendent.—The county superintendent of public instruction is elected by the county board of education. He must be a man of liberal education and must have had at least two years' experience in teaching school. He must keep the books of the county board of education, hold township teachers' meetings, examine teachers, and visit the schools.

165. School Committee.—The school committee is appointed by the county board of education. Members of the school committee, as well as members of the county board of education, must be men of good business qualifications and known to be in favor of public education. It is the duty of the committee to employ teachers, to control school property, and to take the school census.

166. Teachers.—Teachers are required to keep a record of the pupils, to maintain good order and discipline in their schools, to encourage morality, industry, and neatness in all

their pupils, and to teach thoroughly all branches which they are required to teach.

167. Special Tax.—A special tax may be voted to add to the public school fund of any district, and a special tax may be voted for township high schools.

168. Rural Libraries.—The state and the county each contribute one-third the cost of a library for a public school, the other third being raised by private subscription.

Every librarian is required by law annually to send to the state superintendent of public instruction such reports as the superintendent may require. Among the items that must be reported are a list of the books on hand, the title and author of every book lost during the year, the number of volumes taken out, and the names of three children of school age who have shown the greatest interest in the library and the greatest improvement from its use.

169. North Carolina Day.—The law provides that October 12th (unless some other day be selected by the state superintendent of public instruction) shall be set apart in each school session for the consideration, with appropriate exercises, of some topic relating to the history of North Carolina. This day in the public schools is known as "North Carolina Day."

170. Increased Facilities.—It is the policy of those in control of our educational system to consolidate school districts wherever practicable, to erect larger and better schoolhouses, and to encourage all efforts to adorn and beautify the buildings and grounds.

STATE INSTITUTIONS

171. The University.—The University of North Carolina is located at Chapel Hill in Orange County. It is governed by a board of eighty trustees elected by the general assembly. The trustees elect the president and faculty and make general rules for the government of the institution. In the trustees are vested all the rights, privileges, franchises, and property of the University. The governor is *ex officio* chairman of the board of trustees. The University is maintained by appropriations from the general assembly, by endowments and bequests of individuals, by tuition fees of students and by escheats—the reversion of land to the state where there is no person who can inherit it. This institution was established by an act of the general assembly passed in 1789.

172. The Agricultural and Mechanical College.—The Agricultural and Mechanical College is located at Raleigh. Its main purpose is to give young men practical training in the industrial arts and sciences. It is governed by a board of trustees consisting of sixteen members. They are appointed by the governor with the advice and consent of the senate. Their powers are similar to the powers of the trustees of the University. The college is maintained by appropriations from the state and from the United States and by tuition fees of students. It was established by an act of the legislature passed in 1887. The Agricultural Experiment and Control Station is connected with the college.

173. The State Normal and Industrial College.—The State Normal and Industrial College is located at Greensboro. The

objects of this institution are "to give young women such education as shall fit them for teaching; and to give instruction to young women in drawing, telegraphy, typewriting, stenography, and such other industrial arts as may be suitable to their sex and conducive to their support and usefulness." It is governed by a board of eleven directors, one of whom is the state superintendent of public instruction, who is also the president of the board. This board is appointed by the state board of education and confirmed by the senate. It has all the powers usually conferred upon such bodies. The institution is supported by appropriations from the general assembly, by endowments and bequests, and by tuition fees of students. It was established in 1891.

174. Other Educational Institutions.—The Appalachian Training School, located at Boone, and the Cullowhee Normal and Industrial School, located at Painter, receive aid from the state for the training of teachers.

The East Carolina Teachers' Training School was established by an act of the general assembly passed in 1907. In the same year it was located at Greenville by the state board of education. This board appoints the board of trustees by which the institution is governed, of which the state superintendent is *ex officio* chairman. It is designed to train teachers of both sexes.

The Agricultural and Mechanical College for the colored race is located at Greensboro. The leading object of the institution is to teach practical agriculture and the mechanic arts.

The state has also made appropriation for the training of teachers for the colored race and for the Croatan Indians.

175. Charitable Institutions.—The state provides for the care of the insane in hospitals at Morganton, Raleigh, and Goldsboro, the latter being for colored patients. These institutions are governed by boards of trustees.

The North Carolina School for the Deaf and Dumb is at Morganton. The board of trustees by which the institution is governed provides for the instruction of the pupils in the branches of study prescribed by law for the public schools of the state, and in such other branches as may be of special benefit to the deaf and dumb.

The State School for the Blind is located at Raleigh and is under the control of a board of trustees.

This board also controls a school located at Raleigh for the education of the colored deaf, dumb, and blind pupils.

176. State's Prison.—The state's prison, often called the penitentiary, located at Raleigh, is controlled by a board of directors consisting of a chairman and four other members, appointed by the governor with the consent of the senate. To it are sent for confinement those convicted of felony and not retained and punished in the counties.

MUNICIPAL CORPORATIONS

177. Corporation Defined.—A corporation, speaking generally, is an organization created by law out of the individuals who compose it, continuing the same notwithstanding the changes of its membership, and possessing only such rights and privileges as the law confers. The authority by which it operates is called its charter or charter of incorporation (§115).

The change of members, some being added or coming into the organization to succeed those who lose their connection with it by death or otherwise, is called its succession or power of perpetual succession. "Men may come and men may go," but the corporation goes on or may "go on for ever" if the charter, when it expires, is continually renewed, and if new members continue to succeed those whose connection with it ceases.

178. Municipal Corporation a Division of the State.—A municipal corporation is a division of the state, with its people, incorporated for purposes of government. These divisions are counties, cities, towns, and incorporated villages.

179. Power to Make Debts and Collect Taxes.—Regarding the government of counties, cities, towns, and incorporated villages the constitution says that 'it shall be the duty of the legislature to provide for their organization and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit. This restriction is intended to prevent abuses by municipal corporations in assessment and in contracting debts. On this subject the constitution also says:

²"No county, city, town, or other municipal corporation shall contract any debt, pledge its faith, or loan its credit; nor shall any tax be levied or collected by any officer of the same except for the necessary expenses thereof, unless by a vote of the majority of the qualified voters therein."

Furthermore the constitution provides:

³"All taxes levied by any county, city, town, or township shall be uniform and *ad valorem* upon all property in the

same except property exempted by the constitution." *Ad valorem* means according to value; *ad valorem* taxes are estimated at a certain per cent on the valuation of the property.

180. Poll Tax.—¹The capitation or "poll tax," as it is commonly called, is the tax paid by the male inhabitants of the state between the ages of twenty-one and fifty years who are not exempt on account of poverty or infirmity. This tax for ordinary state and county purposes cannot exceed two dollars per head; but incorporated towns and villages are not so limited. By virtue of the authority of their charters, they often levy a poll tax of much more than two dollars on the individual. Nor do their charters always require them to observe the rule called "the equation of poll and property," which must be followed in the levy of state and county taxes. ²Under this rule, poll tax for state or county purposes on each individual is equal to the tax on property valued at three hundred dollars.

181. Government of Cities, Towns, and Incorporated Villages.—The manner in which cities, towns, and incorporated villages are governed is prescribed in charters granted by the legislature. The charter of a city, town, or village usually provides for a mayor and a board of aldermen, also called a board of commissioners, to be elected by the qualified voters thereof. Sometimes, however, the people elect only the aldermen, and these in turn elect the mayor.

The mayor and aldermen constitute the governing body of the municipality and they usually elect or appoint the other municipal officers, fix their salaries, and prescribe their duties so far as the charters and other laws allow. They also su-

pervise and sometimes control the official conduct of these officers, though often supervision is committed to the mayor.

Within the limits prescribed by law, the governing body enacts certain regulations to promote health, morality, safety, and cleanliness. These regulations are called city or town ordinances. For the violation of these ordinances small penalties are prescribed.

The mayor as a court is considered elsewhere (§152).

182. Counties as Corporate Bodies.—"Every county is a body politic and corporate and shall have the powers prescribed by statute and those necessarily implied by law and no other; which powers can only be exercised by the board of commissioners or in pursuance to a resolution adopted by them."

183. Board of County Commissioners.—The county commissioners are elected by the qualified voters of their respective counties, except in Vance county where they are elected by the justices of the peace. Ordinarily there are three commissioners for each county, but in some counties there are five. They meet at the courthouses of their respective counties the first Monday in certain designated months, and oftener if found necessary.

Among the powers of the board of county commissioners the following may be especially mentioned: (1) to divide the county into townships; (2) to levy county taxes and to exempt from the poll tax on account of poverty or infirmity; (3) to provide by taxation for the maintenance of the poor of the county; (4) to approve the bonds of county officers given to secure the faithful performance of their duties; (5) to con-

struct and repair bridges and to order the laying out, alteration, or discontinuance of highways; (6) to provide for the erection of houses of correction (workhouses) where vagrants and persons guilty of misdemeanors may be restrained and usefully employed.

184. Register of Deeds.—The clerk of the board of county commissioners is the register of deeds. This officer is elected by the people of the county every two years. He appoints his deputies.

In his office are recorded all deeds, mortgages, leases, contracts, and other papers affecting the title to real or personal property which are authorized or required by law to be recorded. He is required by law to keep an index of these instruments, and his records and index are open to the public. When a mortgage, or other contract securing money, is paid, it is cancelled or marked satisfied on the record by the person to whom the money is paid; the register of deeds or his deputy is also authorized upon proper evidence of payment to make such cancellation.

The register of deeds is the officer who issues marriage licenses. These are required by law to be returned to his office by the officiating clergyman, or other person who performs the ceremony, within two months thereafter. They are then entered upon a marriage register and filed among the records of the office.

In connection with his duties as clerk to the board of commissioners of his county, the register of deeds certifies to the sheriff a list of the jurymen drawn for the next ensuing term of court (§148).

The taxes of the county are computed by the register of deeds; the books are then turned over to the sheriff, who collects them upon the register's computation.

185. Clerk of the Superior Court.—Another very important county officer is the clerk of the superior court. He is elected by the qualified voters of his county and holds his office for four years.

Among his duties may be mentioned the following: he issues the summonses to start civil actions; keeps records of the court proceedings, appoints guardians, executors, administrators, and supervises them in the performance of the duties that they are required to perform. He acts for the court, and indeed, except when the judge is present at a term, he is for many purposes the court. His duties are too complex and numerous to be mentioned in detail.

186. The Sheriff.—The sheriff is also a county officer and is elected by the qualified voters of his county. He is the executive arm of the court, and as such makes arrests, keeps prisoners, and serves warrants, summonses, and other papers issued by the court. He is also the tax collector of his county of all state and county taxes, though the legislature may require this duty to be performed by some other officer.

He appoints his deputies, who also make arrests and serve papers. He often appoints as deputy in a particular township the person who has been elected constable by the people thereof. The ordinary duties of a constable are to serve warrants and other papers issued by a justice of the peace.

The sheriff gives a bond for the faithful performance of his duties as a court officer, and another bond for the faithful

performance of his duties as tax collector and to secure the safe-keeping of the funds in his hands as such. He is *ex officio* the county treasurer in those counties which have no such officer.

187. The Treasurer.—The county treasurer is an officer whose duty it is to keep and receive all moneys belonging to the county, and all other moneys by law directed to be paid to him. He pays out money for the county and renders an account of the same as may be required by law. Like the sheriff and other county officers he gives a bond to secure the faithful performance of his duties.

188. The Coroner.—The coroner is elected by the people, and holds his office for two years. It is his duty to inquire into the cause of death of those who die under suspicious circumstances. He may summon a jury to aid him in such investigation.

CORPORATIONS OTHER THAN MUNICIPAL

189. Quasi-Public Corporations.—There is a class of corporations called “quasi-public,” such as railroad, telegraph and telephone companies. While organized primarily for private purposes, these corporations have undertaken the business of serving the people, and have on this account been granted some powers which are ordinarily exercised by the government alone.

One of the powers granted to such corporations is the right of eminent domain—the power to take and use private property for public purposes. In the manner allowed by law they may condemn land belonging to a person, upon proper

compensation to him, and operate on or over it railroads and telegraph and telephone lines. On account of the exercise of this governmental function, the government regulates and inspects their methods of doing business and prescribes the rates, fares, and tariffs which they may charge to the people they serve.

190. Private Corporations.—As public corporations are created for purposes of government, so private corporations are created for private purposes, such as to carry on some manufacture, trade, or business (§115).

THOUGHT QUESTIONS

1. Mention some of the advantages to a state of an educated people.
2. Why should civil government be studied in the schools?
3. Who is superintendent of public schools in your county (city)?
4. Give the names of the members of the board of education in your county (city).
5. Mention some of the advantages of rural libraries.
6. What exercises would you consider appropriate for celebrating "North Carolina Day?"
7. Give the names of two private corporations; two quasi-public corporations; two municipal corporations.
8. What is the rate of state and county taxation?
9. Who is the mayor of your town, village, or nearest town?
10. What are the names of the county commissioners of your county?

CHAPTER IX

LEGISLATIVE DEPARTMENT OF THE GOVERNMENT OF THE UNITED STATES

ORGANIZATION AND STRUCTURE

191. The Two Houses of Congress.—Congress is the ¹legislative body of the United States government. It is composed of two branches, a ²senate and a house of representatives. The latter is usually called “the house,” though both bodies are often alluded to as “the two houses.” Congress is required to ³meet every year on the first Monday in December; and it may be ⁴convened or called together by the president upon extraordinary occasions at times fixed by him. Such meetings are called special sessions.

192. Term.—The term of office of all its members begins on the 4th of March. At this date also begins the term of a Congress and continues two years, when it is said to expire. The term of the first Congress elected under the constitution of the United States was authorized to begin on that day in 1789; so all the succeeding terms have begun in the odd-numbered years. In such years also falls the first or long session of each Congress, which begins on the first Monday in December and may continue till the same day in the next year. The second or short session must end the 4th of March following, for that is the end of the congressional term, and the session cannot continue after the term has expired.

193. The Senate.—"The ¹senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof for six years." When the government of the United States under the present constitution began in 1789, the senators were arranged in three ²classes (as near as possible equal in number), the term of one class expiring in two years, the term of another class expiring in four years, and the term of a third in six years. In admitting a new state into the Union its first senators are placed in one or another of these classes so as to keep the three divisions as nearly equal in number as possible. Those subsequently elected hold their offices for the full senatorial term of six years.

By this arrangement into classes, the term of one-third of the senators begins and the term of one-third expires every two years. This, together with the biennial expiration of the terms of representatives, fixes the end of a term of Congress.

Each state is entitled to ³two senators; each senator is entitled to one ⁴vote.

194. Election of Senators.—The constitution has given to the states the power to prescribe "the ⁵times, places, and manner of holding elections for senators and representatives;" but "Congress may make or alter such regulations except as to the place of choosing senators, which is entirely under the control of the states. Accordingly the statute of the United States provides that the legislature of the state chosen next before the expiration of the term of a senator shall choose his successor, and that it shall do this on the second Tuesday after it assembles.

On that day at noon each house of the legislature votes separately, *viva voce*, —that is, by each member stating aloud

for whom he votes—and the result is entered on the journal of each house. The next day at noon the two houses meet in joint session, and if it appears that the same person has received a majority of the votes in each house, he is declared elected. If the journals show no election, the joint assembly votes; and if any one receives a majority of the votes of such assembly—provided a majority of all the members of both houses are present and voting—he is declared elected. If there is no election, the joint assembly meets every day at 12 o'clock noon and takes at least one ballot until a senator is elected.

195. Qualifications of Senators.—¹“No person shall be a senator who shall not have attained the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.”

196. House of Representatives.—²“The house of representatives shall be composed of members chosen every second year by the people of the several states.” After each ³census, which is taken every ten years, the number of representatives to which each state is entitled is fixed by Congress. The state is then divided by its legislature into districts to correspond with the number of its ⁴representatives. ⁵“Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in the state, excluding Indians not taxed.” The greater the population of a state the greater the number of its representatives; but each state is entitled to ⁶one representative no matter how small its population.

As Congress ¹admits new states into the Union, within the limits allowed by the constitution, it usually requires the population of the state to be as great as that of a congressional district. This rule, however, has not always been adhered to. Some states have been admitted before their population reached the required number. Utah, for special reasons, was not admitted until its population considerably exceeded it.

197. Election of Representatives.—According to the provisions of the constitution, Congress has prescribed ²regulations concerning the election of representatives.

The time for their election is Tuesday after the first Monday in November every second year. All votes are on written or printed ballots. Each district is entitled to one representative, and is composed of compact and contiguous territory. Every district contains as near as practicable the same number of inhabitants. When an additional member is allotted to a state by reason of its increase of population as ascertained by the census, he is elected from the state at large,—that is, is voted for by the people of the whole state—until the legislature thereof makes the number of districts equal to the number of representatives apportioned to the state.

198. Qualifications of Representatives.—³“No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.”

199. Rule of Apportionment.—In 1911 Congress enacted that ⁴“after the 3d day of March, 1913, the house of representatives shall be composed of four hundred and thirty-three

members to be apportioned among the several states as follows:”. The act then designates opposite the name of each state the number of representatives to which each state is entitled; for example:

Alabama....	10	Louisiana....	8	North Carolina..	10
Georgia.....	12	Missouri....	16	Tennessee.....	10

The manner in which Congress makes this apportionment of representatives among the several states is an interesting though simple process. After each census it passes an act, similar to the one above quoted, fixing the number of representatives that shall constitute the house. Before passing this act, it divides the population of the United States (excluding the Indians not taxed) by the number of members it has determined shall constitute the house. The number determined after the census of 1910 was four hundred and thirty-three. This division ascertains what is known as the ratio of representation, which under the apportionment of 1911 was 212,407. Dividing the population of each state by this number gives the number of representatives to which each state is entitled.

Mr.
200. Delegates from the Territories.—The territories of the United States are entitled each to one delegate in Congress. Delegates may speak in debate, and are entitled to the privileges of the floor; but they cannot vote. Their compensation is the same as that of the representatives.

201. Election.—¹“Each house shall be the judge of the election, returns, and qualifications of its own members.”

Returns are the statements or reports of the balloting at an election made out by the proper officers.

202. Presiding Officers.—The house of representatives elects its own presiding officer. He is called the ¹speaker. The presiding officer of the senate is the ²vice-president of the United States. In case of his ³absence or inability to serve, the senate elects a presiding officer known as the president *pro tempore*.

203. Compensation of Members.—Congress has fixed the compensation of its members at \$7,500 a year and mileage. Each member has the assistance of a clerk, whose salary is paid by the government.

204. Privileges of Members.—Members of Congress are privileged from arrest (except for treason, felony, or breach of the peace) while they are in attendance upon its sessions or going to and from the same. Members of Congress cannot be sued in the courts for anything they may say in speech or debate about other people, even though their utterances be false and malicious. The constitution requires that there should be the utmost freedom of speech in matters of such vital importance to the people.

205. Methods of Business.—In regard to the manner in which Congress transacts the business of making laws, it is sufficient to quote the words of the constitution:

“All bills for raising revenue shall originate in the house of representatives but the senate may propose or concur with amendments as on other bills.”

“Every bill which shall have passed the house of representatives and the senate shall, before it becomes a law, be presented to the president of the United States; if he approve, he shall sign it; but if not, he shall return it with his objection to that house in which it shall have originated, who shall enter the

objections at large on their journal, and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law."

"Every order, resolution, or vote to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment) shall be presented to the president of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill."

206. Rules of Procedure.—²"Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member."

207. Impeachment.—³"The senate shall have the sole power to try all impeachments;" but "no person shall be convicted without the concurrence of two-thirds of the members present."

The house of representatives shall have the ¹sole power of impeachment. When the house makes charges against any officer of the United States government subject to impeachment—and such officers are all civil officers of the United States except members of Congress—the ²senate sits as a court of justice and decides and renders judgment upon the guilt or innocence of the officer charged or impeached by the house.

“³Judgment in case of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law.”

208. Vacancies.—If ⁴vacancies happen in the senate “by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.”

If the legislature were actually in session, of course it would elect a senator, but he would only fill out the unexpired term of the one he succeeded. The appointee of the executive holds office only until the meeting of the next legislature.

For representatives the rule is—⁵“When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.” The person elected holds his office until the end of the unexpired term,—that is, until the next regular election for representatives.

POWERS AND RESTRICTIONS

209. Powers.—The Congress shall have power:

¹“To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States.”

²“To borrow money on the credit of the United States.”

³“To regulate commerce with foreign nations, and among the several states, and with the Indian tribes.”

⁴“To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States.”

⁵“To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.”

⁶“To provide for the punishment of counterfeiting the securities and current coin of the United States.”

⁷“To establish post offices and post roads.”

⁸“To promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.”

⁹“To constitute tribunals inferior to the supreme court.”

¹⁰“To define and punish piracies and felonies committed on the high seas and offenses against the law of nations.”

¹¹“To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.”

¹²“To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years.”

¹³“To provide and maintain a navy.”

1“To make rules for the government and regulation of the land and naval forces.”

2“To provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasions.”

3“To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress.”

4“To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings.”

5“To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.”

210. Restrictions.—6“‘The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.’” (§310).

7“‘No bill of attainder or *ex post facto* law shall be passed.’”

8“‘No capitation, or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.’”

¹“No tax or duty shall be laid on articles exported from any state.”

²“No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to or from one state be obliged to enter, clear, or pay duties in another.”

³“No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.”

⁴“No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state.”

TERMS AND PHRASES DEFINED AND EXPLAINED

211. Taxes.—The power to collect taxes is incidental to all governments; but to avoid confusion and conflicts when there are two governments, the taxation of each is properly confined to different subjects. Though the federal courts hold that the general government can withdraw property from state taxation, and devote it exclusively to federal taxes, in practice this power is little exercised.

The United States collects taxes from whiskey and other alcoholic liquors and from tobacco; these taxes are called excise, or internal revenue. It also collects taxes on articles imported or brought into this country from foreign countries; these taxes are called duties or imposts. A schedule or sys-

tem of duties imposed by the government on imports is called a tariff.

Duties and imposts are required to be uniform throughout the United States,—that is, the same duty on the same article must be levied in all the ports, and no preference in favor of the ports of one state shall be given over those of another. Vessels bound to or from one state shall not be obliged to pay duties in another.

Without the consent of Congress, no state can lay any imposts or duties on imports or exports except what may be absolutely necessary for executing its inspection laws. Both the states and the United States are forbidden to lay any tax or duty on any article of merchandise exported from any state.

The states tax real and personal property; in fact, everything not withdrawn by federal authority and devoted exclusively to federal tax or control.

212. Interstate Commerce.—Congress makes laws regulating the traffic between the states. This traffic is called ‘interstate commerce.’ It includes the regulation and control of business transactions across state boundaries, such as the interstate business done on railroads and on telegraph and telephone lines, which operate in two or more states.

213. Copyrights and Patents.—Congress makes laws regulating copyrights, by which authors protect their books from being published and sold without their authority; and patents by which inventors likewise protect their inventions. Both are allowed a monopoly of their production for a limited time to encourage them and others, and to promote the progress of science and of the useful arts.

214. Letters of Marque and Reprisal.—As Congress alone has the power to declare war, it exclusively exercises the power to grant letters of marque and reprisal. Such letters authorize a private individual to take the property of a foreign state or of its citizens or subjects in reparation for injury committed by such state, its citizens, or its subjects. In time of war, a government sometimes authorizes a private shipowner to destroy the shipping and commerce of its enemies or of their subjects.

215. Bill of Attainder.—A bill of attainder is a legislative act which condemns and inflicts punishment without a judicial trial. In other words, it deprives a person of life, property, or other rights of citizenship without allowing him a trial in the courts according to the established forms of justice. Such a law Congress is forbidden to pass.

By another clause in the constitution, ‘attainder’ (even though one has been properly tried and convicted) is not allowed to “work corruption of blood or forfeiture” of property so as to prevent the convict’s children or descendants from inheriting from him. After his death the property forfeited reverts to his heirs.

216. Ex Post Facto Law.—An *ex post facto* law is one which increases the punishment of crime after it has been committed, or makes an act a crime which was not a crime when the act was committed. Such laws are forbidden.

217. Inferior Courts.—Many books have been written on the powers of Congress. The whole system of federal courts below the supreme court is built up by legislation under the power granted in the following clause (and several others of

similar import): "Congress shall have power to constitute tribunals inferior to the supreme court." Even as to the supreme court, Congress has power to regulate its jurisdiction over cases which come to it by way of appeal from the lower courts, and to fix the salaries of its judges.

THOUGHT QUESTIONS

1. What is the number of the present Congress and when will it expire?
2. Who are the United States senators from North Carolina? When do their terms expire?
3. What is the number of your congressional district?
4. Who is your congressman? Where does he live?
5. Who is now speaker of the national house of representatives? Who is president of the senate?
6. What president was tried by impeachment, and what was the result of the trial?
7. What territories applied to the sixtieth congress for admission as states, and with what results?
8. What is meant by 'protection'? by 'free trade'? by 'tariff for revenue only'?
9. Mention all the kinds of United States money in circulation.
10. About what rate of interest does the national government pay for the use of money?

CHAPTER X

EXECUTIVE DEPARTMENT OF THE GOVERNMENT OF THE UNITED STATES

GENERAL POWERS AND STRUCTURE

218. Executive Power.—The federal constitution says:

“The executive power shall be vested in a president of the United States of America.”

The president is not only the chief executive of the nation, the head of its executive department, but he is for the purposes intended by the constitution the department itself. Its other principal officers, except the vice-president, are appointed by him. He is, indeed, the great appointing power of the government, though this power is usually exercised by and with the advice and consent of the senate. He is the great supervisor of all the divisions and offices of the executive department. He is commander-in-chief of the army and navy of the United States. By written communications to Congress, called “Messages of the President,” he may inform that body of the state and condition of the Union and advise it as to needed legislation. As the chief officer of the government he deals with foreign nations and receives their representatives. His salary is \$75,000 a year.

219. Qualifications.—No person can become president unless he is a natural-born citizen and has been for fourteen years a resident of the United States; nor unless he is at least thirty-five years of age.

220. Impeachment.—Like other civil officers of the general government, the president is liable to impeachment and removal from office for treason, bribery, and other high crimes and misdemeanors. When the president is impeached, the senate sitting as a court must be presided over by the chief justice of the United States.

221. The Vice-President Succeeds.—In case of the removal from office or the death, resignation, or other inability of the president to discharge the powers and duties of his office, he is succeeded by the vice-president with the same powers, duties, and emoluments. The vice-president must have the same qualifications for office as the president.

222. Presidential Electors.—The president and vice-president are chosen by electors. The word 'elector' is often used merely to designate an ordinary voter; therefore, the term presidential electors' has been adopted to describe those officers whose duty it is to cast their votes for president and vice-president.

The states determine the manner of choosing these electors; but Congress may fix the time at which they shall be elected, and the day on which they shall cast their votes, which day shall be the same throughout the United States. When they have cast their votes as prescribed by law, and have transmitted the same to the seat of government, their offices cease.

The manner of choosing electors, which is practically the same in all the states, is by ballot of the qualified voters. The qualifications of the voters are fixed by the states, within certain limitations prescribed by federal law. Some states, however, have in the past adopted methods other than election by

the people—their electors have been chosen by their legislatures. In Michigan two electors are chosen by the state at large; the others, by congressional districts.

As the number of electors in any state must be equal to the whole number of its senators and representatives in Congress, a state gains electors as its representatives are increased with its increase of population. The day fixed by Congress for the election of electors is the Tuesday after the first Monday in November of every fourth year, counting from 1788, when Washington was elected.

223. Meeting of Electoral College.—Congress has also by law directed that the electors of each state shall meet and give their votes for president and vice-president on the second Monday in January next following their election (or appointment) at such place in each state as the legislature thereof shall direct. The capital of the state is the place usually selected. When so assembled they constitute the electoral college, or college of electors.

They cast their ballots for president, and then separately for vice-president; but if an elector votes for an inhabitant of his own state for either office, he cannot vote for an inhabitant of that state for the other office. His candidate for president and vice-president cannot both be from the state for which he is chosen an elector.

224. Ascertaining Results.—When the electors cast their ballots, they make three lists, each alike, showing the persons for whom they voted for president, and the persons for whom they voted for vice-president, and the number of votes for each. These lists they sign, certify, and seal. Two of them they transmit to the seat of government of the United States, directed

the president of the senate. One is sent by mail, and the other by special messenger appointed by the electors. They transmit the third list to the judge of the federal court of the district in which the electors had their meeting. He afterwards transmits it to the secretary of state of the United States.

The sealed lists of the electoral votes sent to the president of the senate, who is usually the vice-president of the United States, are opened by him on the second Wednesday in February succeeding the election. This opening is done in the presence of the senate and house of representatives in joint session. Over this joint session, which is the only occasion on which the two houses meet together, the president of the senate presides. The votes are counted by tellers previously appointed by the two bodies acting separately.

The person having the highest number of votes for president of the United States, if such number is a majority of all the electors chosen, is declared to be elected to that office. The person having the highest number of votes for vice-president, if such number is a majority of all the electors chosen, is declared to be elected to that office.

225. Election by the House of Representatives.—If no person received a majority of the votes for president, the house of representatives elects one from among the three persons who have received the highest number of votes for the office. In such elections the votes are taken by states, each state having one vote. A majority of the representatives from a state casts its vote, and if they are evenly divided the state loses its vote. A quorum of the house for the transaction of this busi-

ness is a member or members from two-thirds of the states. If but one member is present, he casts the vote of his state.

226. Election by the House Illustrated.—The election of Jefferson in 1801 is thus described:

“The senate and house met in joint session, and the count having disclosed that there was no election by reason of the tie between Jefferson and Burr, the house returned to its chamber, and under rules previously adopted proceeded to vote for president.

“Sixteen ballot boxes—one for each state—were provided and the members from each state, seated together, deposited their ballots in the box assigned to them, and then by tellers of their own counted the ballots. Two other boxes were then carried around to the delegations by the sergeant-at-arms, and in each of these a duplicate ballot, showing the choice of the state, was deposited. If a majority of the members from a state voted for the same person, the vote of the state was cast for him—but, if no person had a majority, duplicate ballots with the word ‘divided’ upon them were deposited. The two boxes were then carried to separate tables and counted by tellers. If the vote in the two boxes agreed, the result was accepted; otherwise, a new balloting was to be taken.

“The balloting began February 11, 1801, and continued until February 17th, when on the thirty-sixth ballot, Jefferson was chosen by the votes of ten states—of which fact the president and the senate were at once notified. Aaron Burr became the vice-president by the vote of the electors—after Jefferson had been chosen president—and not by a vote of the senate.

“The certificate which the senate directed its president to sign, after reciting that Jefferson and Burr had each received

the same number of votes, and a majority of the electors, and that Jefferson had been elected president by the house of representatives, concluded thus:

“‘By all of which it appears that Aaron Burr, Esq., of New York, is duly elected vice-president of the United States of America.’”

This election took place before the adoption of the twelfth amendment to the constitution. At that time the person receiving the next highest number of electoral votes for president became vice-president, and so when there was a tie and one was elected by the house of representatives, the other became vice-president by law.

227. The Cabinet.—The president is advised and aided in the discharge of his duties by his cabinet or cabinet officers as they are also called. These are appointed by him, with the advice and consent of the senate, like the other principal officers of the general government.

The cabinet officers are: the secretary of state, secretary of the treasury, secretary of war, attorney-general, secretary of the navy, postmaster-general, secretary of the interior, secretary of agriculture, secretary of commerce and labor. They are the heads of the great divisions of the executive department and hold their offices during the pleasure of the president.

Their offices were created by Congress under the authority of the constitution, and by the same authority their general duties, which are elsewhere considered, are prescribed.

228. Presidential Succession.—In case of the death, removal, or disability of both the president and the vice-president,

the succession to the presidency devolves upon the members of the cabinet in the following order: secretary of state, secretary of the treasury, secretary of war, attorney-general, postmaster-general, secretary of the navy, secretary of the interior.

229. Principal Offices—How Filled.—What may be called the principal or superior offices of the government, are regularly filled by nomination of the president and confirmation of the senate. Some officers are named in the constitution; as, for example, ambassadors, ministers, consuls, and judges of the supreme court. Others are not so named; as, for example, the judges of federal courts inferior to the supreme court and the cabinet officers.

The authority in the president for filling these offices is implied in the phrase, "He [the president] shall nominate and by and with the advice and consent of the senate appoint" not only the ambassadors, other public ministers and consuls, but also "all other officers of the United States whose appointments are not otherwise provided for" by the constitution or by the law.

230. Offices Created by Congress.—Among the other offices created by act of Congress, and required to be filled by nomination of the president and confirmation of the senate, may be named:

First, second, and third class postmasters, collectors of customs, judges of the district and circuit courts, United States district attorneys, directors of the mints, officers in the army and navy, commissioner of immigration, and governors of territories. The number of civil officers appointed by the president is now not far from eight thousand, the more important of

which are confirmed by the senate. But the constitution says: "Congress may by law vest the appointment of such inferior officers, as they think proper, in the president alone, in the courts of law, or in the heads of departments." Several hundred thousand of such inferior officers and subordinate assistants, or aids in the service of government, have been created.

231. Civil Service.—A very large number of these inferior officers are embraced in the civil service act. This act authorizes the president, aided by the civil service commission, to make rules requiring that certain appointments be made from among those who have stood examinations showing capacity and knowledge to discharge the required duties.

THE PRESIDENT

232. Appointments.—The president nominates or sends to the senate the name of a person he has selected for an office. The senate, usually behind closed doors in what is called an executive session, proceeds to consider the qualifications of the nominee. If a majority vote in his favor, he is said to be confirmed, and a commission showing his appointment is issued. If less than a majority vote for him, he stands rejected and the president makes another nomination.

233. Removals.—The power of the president to appoint one to an office ordinarily carries with it the power to remove him therefrom; in the exercise of the latter power the concurrence of the senate is not required.

Some officers appointed by the president cannot be removed even with the concurrence of the senate. Such are the judges

of the supreme court and of the inferior federal courts. They are members of a coördinate branch of government and by special provision of the constitution, hold their offices during good behavior; of their behavior the president is not the judge. Unless they do some act or fail to perform some duty, for which they may be impeached, they continue in office for life. If impeached, they may be removed in the manner provided by the constitution.

234. Recess Appointments.—If a vacancy occurs in an office during the recess of the senate, the president makes a temporary appointment. Recess appointments are sent to the senate at its next session for confirmation or rejection. If not acted upon by the end of the session, the office becomes vacant, and another recess appointment may be made.

235. Supervision.—A very important power is embraced in the phrase—²“he [the president] shall take care that the laws be faithfully executed.” This gives him by implication the power of removal or dismissal of officers when he thinks them inefficient or unfaithful, or when in his judgment the public service requires it.

This clause gives him a supervision over all the officers of the government appointed by him (whether with or without the concurrence of the senate) except the justices of the supreme court and other federal judges.

236. Commander-in-Chief—The president, as commander in chief and by authority of Congress, may, in order to enforce the laws of the nation, uphold the federal government, and protect the states against insurrection and invasion, call to his aid the army and navy of the United States. He may

by the same authority, and for the same purposes, also call to his aid the militia of the states, which he likewise commands when called into 'actual service of the United States.

237. Military Power Restricted.—The military power of the president is restricted by the powers vested in Congress. ²Congress has the power to declare war; to raise and support armies; to make rules for the government and regulation of the land and naval forces; to provide for the calling forth of the militia to execute the laws of the Union, suppress insurrections, and repel invasions; and to provide for arming, organizing, and disciplining the militia, and for governing such part of them as may be in the employ of the United States.

But to the states respectively is reserved the right to appoint officers and the authority to train the militia according to the discipline prescribed by Congress. Militia are the citizen-soldiers of the states, and are state forces until called into the actual service of the United States.

238. Pardoning Power.—The pardoning power of the president is conferred in these words:

³“And he shall have power to grant reprieves and pardons for offenses against the United States except in cases of impeachment.”

This power is thus explained and defined by a chief justice of the United States: “The constitution authorizes the executive to grant or withhold pardons at his own absolute discretion. To the executive alone is entrusted the power of pardon. * * * * * Pardon includes amnesty. It blots out the offense, pardons and removes all of its penal consequences. It may be granted on conditions.” He adds

that Congress could not change the effect of such a pardon any more than the president could change a law.

A pardon cannot change the effect of or relieve against a judgment of impeachment. The impeachment court has the power to convict and cause the removal from office of the president himself; therefore it would not be proper for him to have power to resist or interfere with its judgments.

239. Veto Power.—The ¹veto power may perhaps be best stated in the language of ²one who has himself been president of the United States:

“If the president finds such objections to the bill as to prevent him from giving it his approval, two courses are open to him. He may, at any time within ten days (Sundays not counted) from the time it was brought to him, return the bill to the senate or to the house—according as the bill was first passed by one or the other—with a message stating his objections to it; or he may suffer the bill to lie upon his table, taking no action whatever upon it. If he takes no action, then the fate of the bill turns upon whether Congress remains in session during the ten days—and by this is not meant that both houses shall be in session every legislative day of the ten. If it does remain in session, the bill becomes a law; if it does not, the bill fails—does not become a law.

“In the statutes-at-large of the United States many laws are found which do not have the president’s signature. These are usually acts of small moment—relief bills or such like, which he could not approve, but did not deem of sufficient moment to be the subject of a veto message.

“But now and then, laws of a general nature and of the highest importance appear without the president’s signature.

Mr. Cleveland allowed the tariff bill of August, 1894, (known as the Wilson Bill) to become a law without his signature. If Congress adjourns before the expiration of the ten days given to the president for the consideration of a bill, and he does not sign it, but retains it without action, it fails, as has been said. This is called a 'pocket veto.' It will be seen, therefore, that as to bills presented to the president during the last ten days of a session of Congress, his veto is an absolute, not a qualified one. He has only to do nothing, and the bill fails. The object clearly was to secure to the president proper time for the examination of all bills.

"When a bill is returned by the president to the house in which it originated, the veto message is read and the question is put: 'Shall the bill pass, the objections of the president to the contrary notwithstanding?' The vote must be taken by yeas and nays and entered on the journals. The object of this is that the public may know just how each member has voted, and that the record shall show whether or not two-thirds of the members have voted for the passage of the bill. If two-thirds of each house of Congress are recorded in the affirmative, the bill becomes a law. This does not mean two-thirds of all the members of each house, but two-thirds of those present and voting—a quorum being present."

240. Treaty-making Power.—The treaty-making power is thus expressed in the constitution:

"He [the president] shall have power, by and with the advice and consent of the senate, to make treaties provided two-thirds of the senators present concur." As used here, a treaty is an agreement of the United States with a foreign government. The character and dignity of this kind of law is very

high, for it has all the force of law, as may be gathered from the following provisions:

¹“This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.”

²“No state shall enter into any treaty,” etc.

Treaties are usually considered by the senate in executive session. The house of representatives has no part in making a treaty, unless it calls for an appropriation of money to carry it into effect. But it seems that a treaty may be ³repealed or abrogated by act of Congress, especially if agreed to by two-thirds of each house.

THE VICE-PRESIDENT

241. Powers and Duties.—The vice-president is named in the constitution as the president of the senate. He takes no part in its debates, and has no vote unless the senate is equally divided. In such case he votes, or, as the phrase is, “casts the deciding vote.” In case of his absence the senate elects a president *pro tempore*, who presides over the senate with the same powers and duties as the vice-president.

The senate appoints its own committees and determines who shall be the chairmen. In this respect and in the control of debates and proceedings, the vice-president has vastly less power than the speaker of the house of representatives, who both names its committees and their chairmen.

Though named with the officers of the executive department, the vice-president is not properly speaking an executive officer unless he becomes president. He is rather a member of the legislative branch of the government.

THE CABINET OFFICERS

242. The Secretary of State.—First among the cabinet officers is the secretary of state. The foreign policy of the United States is directed by or through him. He formulates all treaties, issues instructions to our foreign ministers, consuls, and other agents of the general government looking after American interests in foreign countries. He presents to the president ambassadors and ministers from foreign countries. He issues passports to any of our citizens who wish to travel abroad. He is the custodian of the great seal of the United States.

243. The Secretary of the Treasury.—To this officer is entrusted the duty of carrying out the financial policy of the government. He has charge of coining the money, which is done by institutions called mints, and of the printing and engraving of our paper money. The national banks of the country are under an officer of the treasury department known as the comptroller of the currency.

244. The Secretary of War.—This officer has general supervision of the land forces of the United States. He has charge also of the improvement of rivers and harbors.

It is under his direction that the money voted by Congress is used for the support of the United States Military Academy at West Point. The purpose of this institution is to educate young men in the knowledge of war. Each member of

Congress appoints one cadet, and the president appoints one for each territory, one for the District of Columbia, and 40 at large. The expenses of the cadets are paid by the government. But no one can enter the Academy until he has passed an examination satisfactory both as to mind and body.

245. The Secretary of the Navy.—This officer has general supervision of the naval forces of the United States—the ships of war and the officers, seamen, and marines. The naval Academy at Annapolis in the state of Maryland, organized to train naval officers, is under his direction.

246. The Postmaster-General.—This officer has charge of the postal service of the United States—the general direction of carrying and distributing the mail. All the vast multitude of officers and employees in this service are under his control.

247. The Attorney-General.—This officer is the legal adviser of the president. He conducts the suits in the supreme court, to which the United States is a party. He may be required, either in person or through some of his assistants, to represent the United States in other federal courts. He exercises general supervision over district attorneys, who represent the United States in the inferior federal courts (§257). He also supervises the marshals of those courts (§257).

248. The Secretary of the Interior.—This officer has charge of the home affairs of the government. The business of the interior department is distributed among several bureaus or sub-departments:

(a) THE PENSION OFFICE is in charge of the commissioner of pensions. This officer looks after the claims made by sol-

diers and sailors entitled by law to pensions on account of service to the United States.

(b) THE LAND OFFICE is in charge of the commissioner of the land office. It is his duty to superintend the surveying and selling of the lands belonging to the United States.

(c) THE PATENT OFFICE is in charge of the commissioner of patents. This officer issues patents upon inventions, to secure to the inventor for a limited number of years the exclusive enjoyment of the profits of his invention. He also issues copyrights, to secure to authors and publishers for a limited number of years the exclusive right to the sale of their books.

(d) INDIAN AFFAIRS. The commissioner of Indian affairs has charge of all those Indians in any of the states or territories that still preserve their tribal relations. They live on what are called reservations, and are protected by laws or treaties. Each reservation is under the general control of an agent.

(e) THE CENSUS BUREAU has charge of taking the census and of publishing the tabulated reports of the same.

(f) THE GEOLOGICAL SURVEY and (g) THE BUREAU OF EDUCATION are parts of the department of the interior.

249. The Secretary of Agriculture.—This officer is the head of the department of agriculture. Among his duties is the inspection of meats and live stock exported from and imported into the country. The chief bureaus under his supervision are:

(a) THE EXPERIMENT STATIONS, maintained in all the states and territories, for the purpose of finding out the kind of plants and seeds best suited to the different soils and climates, and other valuable facts and statistics relating to agriculture and horticulture. These stations are in charge of scientific men

who publish in bulletins and otherwise the results of their experiments.

(b) THE WEATHER BUREAU, maintained with stations in all parts of the United States and upon islands near the seacoast, where the climate and weather are carefully observed and studied. Daily records of conditions are made and reported to the central office in Washington. By means of these reports the chief of this office predicts the state of the weather for the ensuing twenty-four hours; he telegraphs his predictions to the various stations for the especial benefit of farmers and seamen.

250. The Secretary of Commerce and Labor.—The office of secretary of commerce and labor was established in 1903. The object of the department under his control is to promote and develop commerce (foreign and domestic), mining, manufacturing, shipping, and fishing. This department is also required to look after and, in a general way, to promote the interests of labor.

THOUGHT QUESTIONS

1. Who is now president of the United States? Of what state is he a citizen?
2. How many vacancies have occurred in the presidency and in what ways?
3. Of what use is a passport in travelling?
4. How many soldiers, including officers, are in the United States army?
5. Of what use is a navy?
6. Name several treaties that this country has made with other countries within the last ten years?
7. Are any direct taxes now being levied by the United States government? by the state government?
8. What is the rate of taxation on manufactured tobacco? On alcoholic liquors?

CHAPTER XI

JUDICIAL DEPARTMENT OF THE GOVERNMENT OF THE UNITED STATES

STRUCTURE, POWERS, AND JURISDICTION

251. Structure.—The federal constitution says:

“The judicial power of the United States shall be vested in one supreme court and in such inferior courts as the Congress may from time to time ordain and establish.”

All judges are appointed by the president, by and with the advice and consent of the senate. They hold their offices for life or during good behavior. While they receive for their services the salaries provided by law, the constitution forbids that the compensation of a federal judge be diminished during his continuance in office. This provision was probably introduced into the constitution to prevent the legislative branch of the government from visiting upon the courts a sort of punishment by reducing a judge's salary on account of any judgment or decision he may have rendered contrary to the views of Congress.

By act of Congress, a federal justice or judge may, at the age of seventy, if he has served ten years, retire and still receive full salary for life.

252. Judicial Power.—The ²judicial power of the United States, which is the power of the federal courts, extends to all civil controversies arising under the constitution and laws of the United States; to the treaties made or which may be made

under the authority of the United States; and to all cases affecting ambassadors and other public ministers and consuls.

The judicial power of the federal courts extends to what is called their admiralty and maritime jurisdiction—jurisdiction over controversies arising out of navigation of the high seas and other public or navigable waters. These courts try cases involving the violation of the navigation laws. For example, they have jurisdiction in a case arising as a result of the collision of two ships.

Federal courts have jurisdiction also over crimes committed on the high seas and other public waters in vessels sailing under the protection of the United States flag.

The jurisdiction of the federal courts further extends to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state claiming lands under grants of different states; between a state and the citizens or subjects of a foreign state; and between citizens of a state and citizens or subjects of a foreign state.

THE SUPREME COURT

253. Organization.—The supreme court consists of a chief justice and eight associate justices, any six of whom constitute a quorum—a sufficient number to transact its business.

254. Original Jurisdiction.—¹In all cases affecting ambassadors and other public ministers and consuls, and those in which a state is a party (§252) the supreme court has original jurisdiction.

255. Appellate Jurisdiction.—In the other cases mentioned in §252 the supreme court has appellate jurisdiction. It hears such cases under regulations prescribed by Congress.

Appeals to the supreme court are either from the inferior federal courts in the states and territories or from the highest or supreme state courts. Appeal from the federal courts is in order to promote justice and uniformity in their decisions. Appeal from a state court is allowed only when the case involves the constitution, treaties, laws, or authority of the United States. Such appeals are to prevent collision between state and federal authority.

INFERIOR COURTS

256. Courts Established by Congress.—In carrying out its power to establish courts inferior to the supreme court, Congress has established district courts, circuit courts, circuit courts of appeal, a court of claims, courts in the territories, and courts in the District of Columbia.

257. District Courts.—The United States is divided into judicial districts, in each of which is established a district court. Sometimes a whole state constitutes a district. North Carolina is divided into two districts, the eastern and the western; other states into two or more, as Congress has determined.

Each district court is presided over by a district judge. In each place where the court is held there is a clerk or deputy clerk, whose duties are to keep the records and to issue writs. There is also a marshal for each district, who is the executive officer of all the federal courts held in his district. His duties are similar to those of a sheriff (§186). In criminal cases the

United States is represented by a prosecuting officer called the district attorney. He also represents the general government in the federal courts in civil cases in which the United States is a party. To aid him in the discharge of his duties, one or more assistant district attorneys may be provided.

The jurisdiction of the district courts chiefly embraces crime and criminal offenses against the laws of the United States, the punishment of which is not capital, committed within the respective districts and on the high seas. It also includes admiralty cases, proceedings in bankruptcy, suits for penalties and the like.

A bankrupt is an insolvent person—one who is unable to pay his debts. The proceedings are brought to distribute his property among his creditors.

258. Circuit Courts.—The several states of the Union, or more properly speaking the federal districts in the states, are grouped together into nine circuits, in each of which is established a circuit court. In the fourth circuit are embraced the states of Maryland, Virginia, West Virginia, North Carolina, and South Carolina. To each circuit is allotted or assigned a justice of the supreme court.

The circuit court is composed of three judges, though one of them may be assigned to hold the court in the absence of the others. These three judges are the circuit justice, who is the member of the supreme court of the United States allotted to the circuit, the circuit judge, who is one of the judges appointed specially for the circuit courts, and the district judge of the district where the court is held.

The circuit court has jurisdiction in civil cases between private parties which may be tried in federal courts where the

amount involved, exclusive of interest and costs, is two thousand dollars or more. It has jurisdiction in criminal cases—violations of the United States criminal law—including jurisdiction to try felonies punishable by death.

259. Circuit Court of Appeals.—This court is composed of the circuit justice, the circuit judges, and such district judges as shall be designated as members of the court by the circuit justice, or, in his absence, by the presiding circuit judge. The judge who tried the case in the court below cannot hear the appeal.

The court of appeals is given jurisdiction of certain appeals from the district and circuit courts. It has only appellate jurisdiction. Its decision is final in some cases, and in others there is the right of appeal to the supreme court of the United States.

260. Court of Claims.—This court consists of a chief justice and four judges. It sits at Washington and holds one term each year. Its jurisdiction is throughout the United States and extends to hearing claims against the United States. The United States government may permit itself to be sued, but Congress pays the judgment only as it sees fit.

261. Territorial Courts.—Congress has power to create territorial courts as a part of the government which it erects for the territories, and to provide for a system of appeals by which a case may be finally reviewed in the supreme court of the United States.

262. Courts in the District of Columbia.—The District of Columbia has two principal courts, a supreme court consisting of six justices and an appellate court consisting of three jus-

tices. The appellate court hears appeals from the supreme court. These courts try originally or by appeal all cases which arise in the District of Columbia, with right of appeal in some cases to the supreme court of the United States.

263. Jury Trial.—The trial of crimes in the federal courts, except in cases of impeachment, is by jury, and such trials must be held in the state in which the crime was committed; but when not committed within any state, the trial is required to be at such place or places as Congress may have directed.

The jury consists of twelve good and lawful men, as in the state courts, and their verdict must be unanimous. The trial in criminal cases is upon a true bill of indictment found by a grand jury, as in the state courts.

In civil actions the rule is that "in suits at common law, where the value in controversy shall exceed twenty dollars, right of trial by jury shall be preserved." A suit brought by one person against another upon his promise to pay money, or a suit for the recovery of a tract of land, are examples of suits at common law. In such cases, if the property in controversy is worth more than twenty dollars, a jury trial may be demanded as a matter of right by either party to the suit.

THOUGHT QUESTIONS

1. Who is chief justice of the United States?
2. Who is the judge of the 4th United States circuit court?
3. What justice of the supreme court is assigned to this circuit?
4. Who is judge of the United States district court of the district in which you live?
5. What is a United States commissioner?
6. For what crime was Aaron Burr tried? Was he tried in a state or a federal court?
7. Who presided at the trial of Andrew Johnson?

CHAPTER XII

STATE AND FEDERAL AND INTERSTATE RELATIONS

264. Explanatory.—The state and federal relations grow out of the powers which the United States may exercise over the states, the powers which the states have with respect to the Union, and the restrictions on the powers of both state and nation.

These relations and the powers under the constitution which control them have been considered from time to time under their appropriate headings; it is, therefore, thought sufficient simply to group here the sections of the constitution relating to this topic, so that they may be studied together.

SUPREMACY OF THE FEDERAL GOVERNMENT

265. Constitutional Provisions.—(a) AS TO THE CONSTITUTION AND LAWS AND TREATIES. ¹“This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.”

(b) AS TO REGULATING COMMERCE. ²“The Congress shall have power * * * * * to regulate commerce with

foreign nations, and among the several states, and with the Indian tribes."

(c) AS TO THE ADMISSION OF NEW STATES. ¹"New states may be admitted by the Congress into this Union." * * *

(d) AS TO CERTAIN POWERS CONFERRED ON DEPARTMENTS OF GOVERNMENT. ²The command of the militia of the states is conferred on the president; the power to ³organize and equip them is conferred on Congress; the power is in Congress to ⁴establish post offices and post roads in the states and to ⁵exercise exclusive legislation over the forts, arsenals, and dockyards of the United States, whether they be located in the states or territories—they are the property of the United States no matter where located.

(e) AS TO CARRYING FEDERAL POWER INTO EXECUTION. ⁶"The Congress shall have power * * * * to make all laws which shall be necessary and proper for carrying into execution the foregoing powers [the powers granted in Art. 1, Sec. 8 of the constitution], and all other powers vested by this constitution in the government of the United States or any department or officer thereof."

PROTECTION TO THE STATES

266. Constitutional Provisions.—(a) AGAINST FEDERAL ENCROACHMENT. ⁷"The powers not granted to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively or to the people."

(b) AGAINST PRIVATE SUITS. ⁸"The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the

United States by citizens of another state or by citizens or subjects of any foreign state."

(e) AGAINST DIVIDING STATES. "No new state shall be formed or erected within the jurisdiction of any other state."

(d) AGAINST ABOLISHING STATES * * * * "Nor [shall] any state be formed by the junction of two or more states or parts of states, without the consent of the legislatures of the states concerned, as well as of the Congress."

(e) AGAINST PREFERRING ONE STATE OVER ANOTHER. "No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to or from one state be obliged to enter, clear, or pay duties in another."

(f) GUARANTEE OF REPUBLICAN GOVERNMENT. "The United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion; and on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence."

(g) EQUAL REPRESENTATION IN THE SENATE. "No state, without its consent, shall be deprived of its equal suffrage in the senate."

(h) PLACE OF TRIAL FIXED IN STATE WHERE CRIME COMMITTED. "The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed."

PROHIBITIONS TO THE STATES

267. Constitutional Provisions.—(a) AS TO COMMERCE.

“No state shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any state on imports or exports shall be for the use of the treasury of the United States, and all such laws shall be subject to the revision and control of the Congress. No state shall, without the consent of Congress, lay any duty or tonnage.”

(b) **AS TO WAR AND TREATIES.** “No state shall keep troops or ships of war in time of peace, enter into any agreement or compact with another state or with a foreign power, or engage in war unless actually invaded, or in such imminent danger as will not admit of delay.”

(c) **AS TO PRIVILEGES AND IMMUNITIES OF CITIZENS.** “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.”

(d) **AS TO THE RIGHT TO VOTE.** “The right of citizens of the United States to vote shall not be denied or abridged by the United States or any state on account of race, color, or previous condition of servitude.”

(e) AS TO LETTERS OF MARQUE AND REPRISAL. ¹“No state shall grant letters of marque and reprisal.”

(f) AS TO FINANCE. ²“No state shall coin money, issue bills of credit, or make anything but gold and silver coin a tender in payment of debts.”

(g) AS TO PUNISHMENT. ³“No state shall pass any bill of attainder or *ex post facto* law.”

(h) AS TO CONTRACTS. ⁴“No state shall pass any law impairing the obligation of contracts.”

(i) AS TO TITLES OF NOBILITY. ⁵“No state shall grant any title of nobility.”

INTERSTATE RELATIONS

268. Constitutional Provisions.—(a) AS TO PUBLIC ACTS, RECORDS, AND JUDICIAL PROCEEDINGS. ⁶“Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state.

“And the Congress may, by general laws, prescribe the manner in which such acts, records, and proceedings shall be proved and the effect thereof.”

(b) AS TO DELIVERING UP FUGITIVES. ⁷“A person charged in any state with treason, felony, or other crime, who shall flee from justice and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.”

(c) AS TO COMPACTS BETWEEN STATES. ⁸“No state shall without the consent of Congress * * * * enter into any agreement or compact with another state.”

(d) AS TO TRADE RELATIONS. States are forbidden, without the consent of Congress, to tax or exercise control over interstate commerce whether it is carried on in vessels, trains, or other vehicles.

THOUGHT QUESTIONS

1. What state was admitted into the Union with the provision that it could be divided into four states?
2. What state was formed within the jurisdiction of another state?
3. What is interstate commerce? intrastate commerce?
4. When two states of the federal Union disagree, what solution of the difficulty is possible.

CHAPTER XIII

TERRITORIES

ACQUISITION—RELATION TO THE UNION—GOVERNMENT

269. Definition.—A territory is a portion of the country, subject to and belonging to the United States, which is outside the boundaries of any state. In this sense New Mexico, Arizona, Alaska, Porto Rico, the Hawaiian Islands, and the Philippine Islands are all territories. Another definition of a territory is that it is one of the districts into which the public domain is divided for purposes of government.

An unorganized territory is one whose government is mainly or altogether administered by the national government. An organized territory is one in which its people are given the right to administer their local affairs.

270. Acquisition of Territory.—All the states in the Union, except the original thirteen and Texas, have been a part of the public domain of the United States or parts of the territory of particular states. The states that possessed territory which they did not care to include within their own immediate boundaries ceded it to the Union. Notable examples of such cession are the great grants made by the states of North Carolina and Virginia.

The states of Kentucky, Maine, and Vermont were never parts of the public domain of the United States. Kentucky

was organized into a state out of territory belonging to Virginia and admitted into the Union as a state upon Virginia's cession. In the same way Maine was organized into a state by its citizens and admitted into the Union upon the cession of Massachusetts. Vermont was claimed by New Hampshire and New York, but was organized into a state, and upon the extinction of their title, was admitted into the Union.

The United States has acquired its public domain or territory as follows:

(a) BY CESSION OF STATES. The lands now embraced in the states of Ohio, Indiana, Illinois, Michigan, Wisconsin, and Tennessee; parts of Minnesota, Alabama, and Mississippi; also the District of Columbia.

(b) BY PURCHASE FROM FRANCE. The territory now embraced in the states of Louisiana, Arkansas, Missouri, Iowa, Nebraska, Oregon, North and South Dakota, Montana, Idaho, Washington, Indian Territory, and parts of Kansas, Alabama, Mississippi, and Minnesota.

(c) BY PURCHASE FROM SPAIN. Florida.

(d) BY CONQUEST FROM MEXICO. The territory now embraced in the states of California, Nevada, Utah, and parts of Arizona, New Mexico, and Colorado.

(e) BY PURCHASE FROM TEXAS. Some lands now included in Wyoming, Kansas, Colorado, and New Mexico.

(f) BY PURCHASE FROM MEXICO. Some lands now included in Arizona and New Mexico.

(g) BY PURCHASE FROM RUSSIA. The territory of Alaska.

(h) BY REQUEST OF ITS CITIZENS. The Hawaiian Islands.

(i) BY CONQUEST AND PURCHASE FROM SPAIN. The Philippine Islands, Guam, and Porto Rico.

271. Power of Acquisition.—The power of the government to acquire territory is beyond question. Jefferson doubted whether the constitution gave him authority to purchase Louisiana; but on this subject the supreme court, in deciding the question of the effect of the treaty by which Spain had ceded Florida to the United States, said through Chief Justice Marshall:

“The constitution confers absolutely on the government of the Union the power of making war and of making treaties; consequently that government possesses the power of acquiring territory either by conquest or by treaty.”

The clauses in the federal constitution which limit the powers of the general government were designed for the protection of the states jealous of federal encroachment upon what they considered their sovereign powers. The acquirement of new territory and the manner in which it should be governed were not questions about which the framers of the constitution concerned themselves.

272. Government.—The only clause in the constitution in which the word ‘territory’ occurs is the following:

“The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claim of the United States or of any particular state.”

Under this clause of the constitution or under the necessary powers vested in the government, Congress has assumed full authority over the territories. It legislates for them directly or delegates to their inhabitants such powers of government as it sees fit.

The government of an organized territory is in the main patterned after the state governments. The inhabitants of a territory cannot elect senators or representatives to Congress, but they may send, if allowed by Congress, a delegate who is entitled to a seat on the floor of the house of representatives; he can take part in the debates, but cannot vote.

Like a state, an organized territorial government has three departments, legislative, executive, and judicial. The officers of the legislative department are elected by the people of the territory. The governor is appointed by the president, by and with the advice and consent of the senate. The other principal executive officers are appointed by the governor. The judicial districts, of which there are usually three, have over them each a judge, who is also appointed by the president by and with the advice and consent of the senate. These judges also sit together from time to time and constitute the territorial supreme court.

The governor and the judges are paid by the United States. The other officers are usually paid by the territory.

The governor annually reports to the president the affairs and condition of the territory.

THOUGHT QUESTIONS

1. How many square miles were contained in the territory purchased from France? What amount was paid for it?
2. Mention the principal terms of the treaty that brought the Spanish-American War to a close.
3. Mention three states, other than Virginia and North Carolina, that have ceded land to the national government.
4. What states claimed the territory north of the Ohio River? On what did they base their claims?
5. Give several reasons for and against the acquisition of Cuba.

CITIZENSHIP

CHAPTER XIV

QUALIFICATIONS, PRIVILEGES, AND DISQUALIFICATIONS OF CITIZENS

QUALIFICATIONS

273. Allegiance.—A citizen of a state or nation is one who owes allegiance to its government and is entitled to its protection. Allegiance is the tie that binds the citizen to his government in return for the protection it affords. A citizen of North Carolina owes allegiance to the state and to the United States. His allegiance to the United States is now said to be 'paramount. If there should be any conflict of authority between the two, he is obliged to obey the ²federal constitution rather than the state government; still each government is sovereign within its sphere.

274. Natural-born Citizens.—The federal constitution says: ³"No person except a natural-born citizen or a citizen of the United States at the time of the adoption of this constitution shall be eligible to the office of president." Such natural-born citizen is one who is born a citizen of the United States.

⁴"All persons born in the United States and subject to the jurisdiction thereof are citizens of the United States and of the state wherein they reside." They are also citizens of the United States though they reside in a territory instead of in a state.

A child born of parents, citizens of the United States temporarily residing abroad, is subject to its jurisdiction because

his parents are; he is as much a natural-born citizen as if born within its borders. So a child born in this country of parents, citizens of a foreign country, temporarily residing here, is not thereby made a citizen of the United States. Like his parents he owes allegiance to a foreign country and like them he is known in our law as an alien.

275. Aliens.—The inhabitants of a state or country are either native (natural born) or alien.

In the United States an alien is one born out of the jurisdiction of the national government and who has not been made a citizen under our constitution and laws.

A foreigner who has not been naturalized and is merely passing through our country or temporarily residing in it is not a subject of our government, state or national; nor is he liable for taxes, military duty, and the other burdens and duties of citizenship, though he is bound to obey such laws as are applicable to him. If, for example, he commits a crime, he is liable to be indicted, and if found guilty, he may be punished just as if he were a citizen. He is also protected by our laws while he remains among us. He has enough of the rights of citizenship to insure the safety of his person and of his property, but he has none of the privileges, such as voting and holding office.

276. Naturalized Citizens.—An alien inhabitant of the United States becomes a citizen of this country and of the state or territory in which he resides by being naturalized. He is said to be naturalized when he has complied with the rule or law prescribed by Congress for making citizens of foreigners.

The constitution of the United States gives to Congress

power to establish a ¹“uniform rule of naturalization.” This means that the requirements for making foreigners citizens of the nation shall be the same in every state and territory. The federal constitution says:

²“All persons * * * * naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the state wherein they reside.” A person is under the jurisdiction of the United States when he is subject to its government.

When an alien becomes naturalized, he has the same rights and privileges under the federal law as a natural-born citizen, except he cannot become ³president or vice-president of the United States. A naturalized citizen, however, may be elected ⁴governor of North Carolina. The same is true of the ⁵lieutenant governor; he must have the same qualifications as the governor inasmuch as he ⁶succeeds him, if on account of death or for any other cause the governor's office becomes vacant.

PRIVILEGES

277. Voting in State and National Elections.—North Carolina, and indeed every state in the Union, by its laws and constitution determines which of its citizens shall vote and hold office under its government. Citizens qualified by the constitution and laws of North Carolina to ⁷vote for officers under the state government are also qualified to vote for federal officers,—that is, for such of them as are elected by the people,—namely, the ⁸presidential electors and representatives in Congress.

Our national constitution does not undertake to fix the qualifications of voters,—does not say who shall be allowed to vote, either in state or national elections. It does declare, however, that those who vote for representatives in Congress shall have the same qualifications that the state has fixed for those who vote for members of the most “numerous branch of the state legislature.” The most numerous branch of our state legislature is the house of representatives. Therefore citizens qualified under the state laws and constitution to vote for members of the North Carolina house of representatives are qualified to vote for members of the national house of representatives.

Another restriction imposed by the federal constitution upon the powers of the state to fix the qualifications of voters is that the state shall not discriminate against any citizen “on account of race, color, or previous condition of servitude,”—that is, no state shall “deny or abridge” his right to vote in any election, state or federal, solely on account of his race or his color, or solely on account of the fact that he was once a slave.

278. Voters and Office Holders.—A citizen who shall move into our state from another may be required to reside in the state for a period of time before he is allowed to vote or hold office. For example, the constitution of North Carolina provides that “every male person born in the United States, and every male person who has been naturalized, twenty-one years old or upward, who shall have resided in the state two years next preceding the election and six months in the county in which he offers to vote, shall be deemed an elector.

Usually the right to vote carries with it the right to hold

office. Several offices, however, are deemed so important that voters of inexperienced age are not allowed to hold them. A voter must be thirty years old before he can be governor or lieutenant governor of North Carolina. The president and vice-president must have attained the age of ¹thirty-five years; United States senators, ²thirty; representatives in Congress and ³members of the state senate, twenty-five. Sometimes, too, the law requires special qualifications for particular officers—as that a judge shall be learned in the law.

279. Right to Vote—How Fixed.—In 1900 the people of the state adopted an amendment to the constitution which went into effect in 1902. This amendment makes the requirements (1) that every citizen shall pay his ⁴poll tax before he is allowed to vote, and (2) that he must also know how to ⁵read and write the constitution in English. The second requirement, however, is not allowed to exclude from voting any ⁶male person who exercised that privilege on or before January 1, 1867—he is presumed to know his civic rights and duties by experience and observation; nor does this amendment exclude the ⁷lineal descendant of such voter,—such descendant is presumed to have been so instructed that he will properly exercise and defend the obligations of citizenship.

In order to ascertain and make a correct list of the citizens who are entitled to vote and to prevent those from voting who are not so entitled, it is necessary to register. A voter is said to be registered when on proof that he has a right to vote, his name has been entered on the registration book and he has taken an oath to support the constitutions of the state and the United States. The officers whose duty is to find out whether the citizens have the right to vote, and who take their

oaths and make a list of their names in the registration books, are called registrars.

When a person has been duly registered, he is said to be a qualified voter. The power to vote is not merely a right but a high privilege of citizenship, and the law allows only those to exercise it who are deemed worthy of it.

DISQUALIFICATIONS FOR VOTING AND HOLDING OFFICE

280. As to Age and Sex.—The privilege of voting is confined to those who are deemed able to defend it. A woman cannot vote in North Carolina. She may, however, impress her views, sentiments, and interests upon those who make the laws and elect the officers. She may train children to love their God and their country; she may fix in their hearts the proper principles of truth, justice, and humanity; she may teach them to know and maintain their rights and liberties, and thus prevent injustice to those who cannot help themselves.

No person is allowed to vote until he attains the age of twenty-one years. Below that age he is not deemed to have formed a correct judgment in political and business affairs, nor to have acquired sufficient character, firmness, and courage to defend his rights and privileges.

281. Holding Two Offices Unlawful.—No person can at the same time hold ¹two offices, places of trust or of profit, even though one of them be under the authority of some other state government or of the United States or of some foreign state. But this rule does not apply to ²officers in the militia,

to justices of the peace, to commissioners of public charities, or to commissioners for special purposes.

282. Moral Disqualifications.—No person can hold office in this state who 'denies the being of Almighty God. No person shall hold office in this state who shall fight a duel or in any manner assist in fighting one.

283. Lost Citizenship.—A voter may lose his privilege of voting by committing a felony—a crime punishable by imprisonment in the penitentiary. The felon may be restored to his lost privilege if it shall be determined in a lawful manner that he has shown due repentance of his crime by becoming a good citizen since his conviction. The governor of the state may pardon him; but it has not yet been decided in this state whether a pardon restores his lost privileges or only relieves him of his punishment. In the United States supreme court it has been held that pardon by the president restores to rights of citizenship in the United States, as if no crime had been committed.

Until the convict is restored to citizenship he can be prevented from voting and holding office, and also from sitting as juror in a court of justice. The method of restoration, as prescribed by the general assembly, is that the convict, after the lapse of four years from his conviction may be restored to the privilege of citizenship if he shall prove by five witnesses that he has been for three years a person of good character for truth and honesty, and shall satisfy the court that he has become a good man.

A voter in a particular state or territory loses his right to vote there by becoming a citizen of another; but he may

vote in the state or territory into which he has moved by complying with its laws, which are made consistently with the constitution and laws of the United States.

THOUGHT QUESTIONS

1. What are immigration laws, and for what purposes are they passed?
2. What class of aliens is most desirable as immigrants? Why?
3. What do you understand by "the yellow peril"?
4. Has any naturalized citizen ever been president of the United States or governor of North Carolina?
5. In what way are voters responsible for the government of the country?
6. How does a primary differ from an election?
7. How is the right to vote in a primary usually determined?

CHAPTER XV

LIBERTIES

DEFINED AND EXPLAINED

284. 'Liberty' Defined.—Liberty is defined to be ¹“freedom from restraint; the faculty of willing; and the power of doing what is willed without interference from another.”

285. Natural Liberty.—Natural liberty is defined to be ²“the power of acting as one sees fit without any restraint or control unless by the law of nature.” If one is the only inhabitant of an island and is not subject to the law of any nation or government, he has natural liberty.

286. Civil Liberty.—Civil liberty is defined to be ³“natural liberty so far restrained by human law as is necessary and expedient for the public good.” For example, if other people move in and take up their residence on the island along with the solitary inhabitant, his liberties are modified by the changed conditions.

From that time forth his liberties, rights, and duties are mainly determined by his relations with the newcomers, for he must consider also their liberties, rights, and duties. If before, he wore no clothes, he must now put on some lest he give offense to the eyes of others. If he marries one of the girls, he must give his wife a part of what he makes; and when children are born, he must support them.

It now becomes necessary to organize a government or public means of protection and defence, and he must contribute his part of the taxes necessary to pay those selected to attend to its business. Those chosen for such purposes must be protected from interference while in the discharge of their public duties. An example of such protection is afforded by the federal constitution, which provides that 'members of Congress while attending its sessions or going to or returning from the same, cannot be arrested, except for treason, felony, or breach of the peace.

287. Religious Liberty.—Religious liberty, or liberty of conscience, may be defined as the right of everyone to worship God as he chooses without being restrained or interfered with by government, society, church, or individual. This liberty was finally won in the Revolutionary War. It is the parent of all other rights and liberties. Not only are the strong not allowed to take it away from the weak, but no government which has due regard for the interest and welfare of its citizens and subjects undertakes to prescribe or regulate what they shall believe in regard to matters concerning religion. This liberty is now claimed as a natural right in every civilized country.

In the United States, one church or religious denomination is not taxed to support another, nor are the people taxed to support any religion or religious denomination, or any charity, college, or school of such denomination; the support of such must be purely voluntary. Nor does the state meddle with the right to worship God. The constitution of North Carolina says:

²⁴"All men have a natural and inalienable right to worship

Almighty God according to the dictates of their own consciences, and no human authority should in any case whatever control or interfere with the 'rights of conscience.'

288. Church and State Separate.—The constitution of the United States says:

"Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

In England, as well as in the colonies under British rule, the British lawmakers made a particular form of worship the religion of the state and taxed the people generally to support it. This is what the constitution of the United States forbids Congress to do. Congress cannot make any law which would recognize any preference of one church, denomination, or form of worship over another; or which would interfere with the freedom of the people to worship God in any manner they see fit.

So likewise our state constitution has forbidden the general assembly to give any preference to one faith, church, denomination, or form of worship over another.

Any person may preach or proclaim his religious views under the special protection of both constitutions, and no one shall be allowed to hinder him or make him afraid. Even to disturb a congregation assembled for religious worship is made punishable by a law of this state. Under this law one man was indicted for singing out of tune with the rest of the congregation; but the court let him go free on the ground that his intentions were good,—that he did not desire to disturb the congregation, but was really trying to worship God, though he had a harsh voice and a bad ear for music.

289. Liberties Become Rights.—"Liberties are nothing until they have become rights—positive rights formally recognized and consecrated. Rights are nothing so long as they are not intrenched with guarantees; and guarantees are nothing so long as they are not maintained by force sufficient for that purpose." An enlightened public sentiment is the great force under Providence for maintaining and preserving the rights and liberties of Americans.

290. Constitutional Guarantee.—The subject may be best concluded in the language of the constitution:

²"That we hold it to be self-evident that all men are created equal; that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness."

THOUGHT QUESTIONS

1. Why did the Huguenots emigrate to this country?
2. What is the distinction between religious liberty and religious toleration?
3. Where is the "liberty bell" kept, and why is it so called?
4. Read Patrick Henry's speech on liberty which was delivered before the Virginia house of burgesses.

CHAPTER XVI

RIGHTS

DEFINED AND EXPLAINED

291. Definitions.—Rights may be defined as the just claims of human beings upon one another.

Civil rights consist of (1) the right of acquiring, enjoying, and disposing of property; (2) the right of personal security, which is the lawful enjoyment of one's life, his limbs, his body, his health, and his reputation; (3) the right of personal liberty, which consists in the power of locomotion, of changing situation, of removing one's person as one's inclination may direct without restraint or imprisonment unless by due process of law.

Political rights confer "the power to participate or take part in the establishment or management of government;" as, for example, the right to vote and hold office. Such rights, however, should be called privileges rather than rights, and should be won and retained, as are other honors, by good conduct.

292. Inalienable Rights Not to be Sold.—Inalienable rights are such as cannot be sold or bargained away; as, for example, the right to "life, liberty, and the pursuit of happiness." If one should sell or contract to sell himself, his wife, or child, such sale or contract would be unlawful and void. A parent may, indeed, appoint a guardian for the care and custody of

his child under the age of twenty-one years, but such guardianship must be for the child's benefit, and the courts will see that the guardian is faithful to his ward.

A mother in North Carolina undertook, by deed duly executed, to dispose of her child for a sum of money to be paid to her for her own benefit; but our supreme court refused to uphold the contract and said that the benefit of the child must be the main thing to be regarded. Even punishment should be administered for the good of the child.

293. Sale of Political Rights Unlawful.—No one can lawfully sell his right to vote or hold office; nor even his right to vote for a particular person, or his right to hold a particular office. The value of such rights is too great to be measured in dollars and cents. The whole people are injured by the depravity of anyone who would treat lightly the precious privileges of citizenship; hence the law will not allow them to be made the subject of bargain and sale.

Jurgurtha, the Numidian king, after buying his acquittal of the crime of murder from the highest court in Rome, uttered words of prophecy when he exclaimed at parting: "O venal city, which shall perish as soon as a purchaser shall be found for thee." As perished Rome, so will perish all peoples, states, and nations that buy and sell, or permit to be bought and sold, the verdicts of juries, the judgments of courts, the voices of legislators, and the votes of citizens. Virtue and patriotism, justice and liberty, are not for sale—they are the gifts of God.

294. Sale of Private Rights Restricted.—No one is allowed to sell his ¹happiness nor his right to pursue his ²private business

or profession; but he may lawfully agree not to follow such business or calling in any given place or community. The person with whom he has made such agreement may compel him by law to choose, if he has so agreed, a new field of employment in a place where it will not seriously lessen or interfere with the profits of the business he has sold. Outside of those limits he is still free to begin business anywhere else he pleases. Nor will the law allow a person, even for money, to cut himself off from carrying on his occupation everywhere or at all places.

A sawmill man in a certain town in North Carolina sold his mill and machinery and agreed not to set up another in that town or its vicinity, and the courts made him stand by his bargain. If he had tried to sell his right to set up a sawmill everywhere in the state, or even in the eastern part of it, the courts would have held that such attempted sale was unlawful and void.

The power of determining how much territory one may sell his right to do business in is exercised by the courts.

295. Offices Cannot Be Sold.—No person can lawfully sell a public office nor his right to hold it. If he wishes to get rid of it, he may resign; and then another person is elected or appointed in his place as the law provides.

No one can lawfully sell the authority of his office nor any part of it, nor any favor or privilege conferred by it. "A public office is a public trust"—it must be exercised for the benefit of the people. They elect to office or give the power to appoint an officer, and they pay his salary; he is therefore the servant of the people and must exercise his authority for their benefit and according to their will as expressed by law.

296. Public Property Not To be Sold For Private Gain.—A public officer is not allowed to sell the property belonging to his office, except as the law permits, and then only for the public benefit. Nor can anyone engaged in a public business (for example, operating a 'railroad) lawfully sell, without the consent of the people, property which is necessary in his business for their accommodation. He has undertaken to become a public servant and must be true to his trust of carrying the people safely, conveniently, and comfortably as the law requires and at such rates and charges as the law prescribes or allows. In other words, he is not allowed to deprive himself of the means of doing his duty.

297. Right of Worship Inalienable.—The right to 'worship Almighty God according to the dictates of the worshiper's own conscience is inalienable. If one should be wicked enough to try to sell this right and another should be foolish enough to try to buy it, the law would not allow such a trade to be enforced or respected. Conscience is not a commodity—it cannot be bought and sold.

As one cannot sell his own duties, public or private, nor his own liberties and inalienable rights, still less can another dispose of them or take them away.

THOUGHT QUESTIONS

1. How does happiness depend upon the maintenance of rights?
2. If the claims of two persons as to their rights conflict, how may their differences be settled?
3. What sections of the declaration of rights of 1776 are a part of our present state constitution?
4. Has the state a right to require a railroad company to fix its rates so that there would be no profit to the owners of the railroad?
5. What do you understand by "government ownership"?

CHAPTER XVII

SAFEGUARDS OF RIGHTS AND LIBERTIES

TRAINING FOR CITIZENSHIP

298. Civic Righteousness.—The great safeguard of our rights, liberties, and institutions is the courage, intelligence, morality, and religion of the citizens. No government can be permanent or remain free where the standard of citizenship is depraved. A people educated in the principles of civic righteousness, unhampered by entangling alliances, and unhindered by the designs of the ambitious and powerful, speedily find or devise laws and constitutions which best express their wishes and subserve their purposes.

The struggles by means of which our rights have been established and declared and our institutions won and maintained show us the value of certainty and clearness in the forms and phrases in which our organic law is written.

299. Familiarity With the Constitution.—The bulwarks, guarantees, or safeguards of our rights and liberties are embedded in our organic law. They are so essential and so wisely devised that the language in which they are set forth should become as familiar as household words. No substitute for the clauses of the constitutions, state and national, in which they are contained, can adequately express their meaning. These clauses when thrown together in their proper relation, mutually explain, support and strengthen each other.

SAFEGUARDS IN THE STATE CONSTITUTION

300. Freedom and Frequency of Elections.—¹“All elections ought to be free.”

²“For redress of grievances and for amending and strengthening the laws, elections should be often held.”

301. Freedom of the Press and Religious Liberty.—³“The freedom of the press is one of the great bulwarks of liberty, and therefore ought never to be restrained; but every individual shall be held responsible for the abuse of the same.”

⁴“All men have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences, and no human authority should, in any case whatever, control or interfere with the rights of conscience.”

302. Special Privileges Forbidden.—⁵“No man or set of men are entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services.”

⁶“No hereditary emoluments, privileges, or honors ought to be granted or conferred in this state.”

⁷“Perpetuities and monopolies are contrary to the genius of a free state, and ought not to be allowed.”

303. Military Power in Subjection.—⁸“No soldier shall in time of peace be quartered in any house without the consent of the owner; nor in time of war but in a manner prescribed by law.”

304. Protection of the Law.—⁹“No person ought to be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner deprived of his life, liberty, or property but by the law of the land.”

305. Rights of Accused Persons.—¹“In all criminal prosecutions, every man has the right to be informed of the accusation against him and to confront the accusers and witnesses with other testimony, and to have counsel for his defense, and not be compelled to give evidence against himself or to pay costs, jail fees, or necessary witness fees of the defense, unless found guilty.”

²“Excessive bail should not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted.”

³“No person shall be put to answer any criminal charge, except as hereinafter allowed, but by indictment, presentment, or impeachment.”

⁴“General warrants, whereby any officer or messenger may be commanded to search suspected places without evidence of the act committed, or to seize any person or persons not named whose offense is not particularly described and supported by evidence, are dangerous to liberty and ought not to be granted.”

⁵“Every person restrained of his liberty is entitled to a remedy to inquire into the lawfulness thereof, and to remove the same if unlawful; and such remedy ought not to be denied or delayed.”

⁶“The privileges of the writ of *habeas corpus* shall not be suspended.”

⁷“Retrospective laws, punishing acts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible with liberty; wherefore, no *ex post facto* laws ought to be made. No law taxing retrospectively sales, purchases, or other acts previously done, ought to be passed.”

306. Open Courts.—¹“All courts shall be open; and every person for an injury done him in his lands, goods, person, or reputation shall have remedy by due course of law, and right and justice administered without sale, denial, or delay.”

307. Trial by Jury.—²“No person shall be convicted of any crime but by the unanimous verdict of a jury of good and lawful men in open court. The legislature may, however, provide other means of trial for petty misdemeanors, with the right of appeal.”

³“In all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and ought to remain sacred and inviolable.”

308. Property Qualification Forbidden.—⁴“As political rights and privileges are not dependent upon or modified by property, therefore no property qualification ought to affect the right to vote or hold office.”

309. Slavery Prohibited.—⁵“Slavery and involuntary servitude otherwise than for crime, whereof the parties shall have been duly convicted, shall be, and are hereby, forever prohibited within the state.”

310. Definitions.—An indictment is a written accusation of crime presented upon oath by a grand jury. Strictly speaking, a presentment and indictment differ—the first being that which the grand jury find and present to the court from their own knowledge or observation; the second is also presented to the court, but it is found upon information received from witnesses.

Hereditary honors and emoluments are those which are inherited like property.

The perpetuities referred to, if allowed, would enable property owners by will and other writing to direct to whom their property should go for an indefinite period after their death.

The writ of *habeas corpus* is issued by a judge to inquire into the lawfulness of the detention or imprisonment of a person. A fuller definition is that it is a writ issued by a judicial officer directed to a person detaining another, commanding him (1) to produce the body of the prisoner at a certain time and place named in the writ; (2) to state the day and cause of his caption and detention; and (3) to do and submit to what the judge issuing the writ shall order.

SAFEGUARDS IN THE FEDERAL CONSTITUTION

311. Power in the People.—¹“The enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people.”

²“A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.”

312. Power in the States.—³“The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively or to the people.”

313. Restrictions on the Power of Federal Government.—⁴“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and to petition the government for a redress of grievances.”

314. Military Power in Subjection.—¹“No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, but in a manner prescribed by law.”

315. Equality before the Law. * * * * ²“No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny any person within its jurisdiction the equal protection of the laws.”

316. Right of Trial by Jury.—³“In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise reëxamined in any court of the United States than according to the rules of the common law.”

317. Rights of Accused Persons.—⁴“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.”

⁵“No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in active service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty, or property, without due

process of law; nor shall private property be taken for public use without just compensation.

¹"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

²"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

³"No bill of attainder or *ex post facto* law shall be passed."

⁴"The privilege of the writ of *habeas corpus* shall not be suspended unless when, in case of rebellion or invasion, the public safety may require it."

CONSTITUTIONAL SAFEGUARDS COMPARED AND EXPLAINED

318. Exercise of Popular Will.—The safeguards which secure the people in the expression and exercise of their will may be grouped together.

(a) ⁵FREEDOM OF CONSCIENCE AND ⁶RELIGIOUS LIBERTY.

(b) ⁷FREEDOM OF SPEECH AND OF THE ⁸PRESS. This freedom, must not be abused; to speak falsely and maliciously of another in the presence of others is slander and subjects the speaker to suit for injury or damage to reputation; and to write falsely and maliciously of another and publish what is written is libel and subjects the writer not only

to suit by the person defamed and injured but also to indictment and punishment for the offense against the public.

(c) ¹FREEDOM OF ASSEMBLY. The people have the right to meet together to consider and discuss what concerns them, to criticise, instruct, and ²petition their lawmakers, and to inform themselves of the conduct of all public officials.

(d) ³FREEDOM AND ⁴FREQUENCY OF ELECTIONS.

(e) LOCAL SELF-GOVERNMENT. This is the right of each community to ⁵regulate its own affairs,—the affairs which peculiarly concern its own people—and to have a voice in determining what concerns it in common with other communities to which it stands related.

319. Right of Trial by Jury.—The right of trial by jury is very ancient and is jealously guarded by all English-speaking peoples. Next to the right of selecting their own officers, it is the great palladium of liberty. It enables the people, after making the laws through those they elect, to join in the administration of law. The jury, by being an essential part of our system of courts, becomes the associate of judges and lawyers; and the citizens liable to jury duty and those who watch the proceedings of courts become educated in a knowledge of the laws and institutions of the country. The tendency is to make us a nation of magistrates assisting in the execution of the laws we have made.

320. Jury Trial in the State Courts.—(a) IN CRIMINAL CASES. Right of trial by jury is a great bulwark of liberty not only for the accused but as a means of educating the people in the laws of their country, in the administration of justice, and in the machinery of the courts.

(b) IN CIVIL CASES. ¹"In all civil controversies at law respecting property the ancient mode of trial by jury is one of the best securities of the rights of the people and ought to remain sacred and inviolable."

321. Jury Trial in the Federal Courts.—The mode of selecting juries in the federal courts is modeled after that which obtains in the state courts. The number of jurors required to constitute a jury is the same as in the state courts; the requirement that the jury shall agree unanimously upon their verdict is also the same.

322. Open Court and Fair Trial.—An important safeguard is the right to a fair, impartial, legal, and orderly administration of justice; a right to a trial by ²due process or due course of law; a right to the ³equal protection of the laws.

The courts shall be 'open' to the poorest as well as the most powerful and they shall try cases in public. Both judges and jurors shall be disinterested and neither shall be influenced by fear, favor, or affection, reward or the hope of reward. The process and proceedings should be certain and particular—general ⁴warrants for arrest and search are forbidden; every warrant should describe the person to be seized and the place to be searched.

Accused persons shall be ⁵informed with certainty and particularity of the charges against them.

No person shall be put to answer any criminal charges except upon indictment and presentment by a ⁶grand jury.

The accused has the right to ⁷confront the accuser and witnesses with other testimony and to be heard and to have counsel in his own defense and to have compulsory process,—

that is, the power of the court, to compel one's own witnesses to attend the trial.

323. Right of Appeal.—The 'right of appeal in matters of law—the right to ascertain whether the case has been tried according to law—exists in all cases, criminal and civil, as provided for in the constitution and regulated by statute. But when the trial is according to law, the verdict of a regularly constituted jury in a properly constituted court stands as final upon the issues of fact determined thereby and cannot, except for extraordinary causes, be disturbed by appeal.

The law allows the right of appeal in matters of fact, as well as of law, to any person convicted in the inferior courts. When a person is regularly acquitted by a jury in any court which had the right to try the case, no appeal is allowed to be taken by the state or prosecuting officer. The case is ended and the accused goes free.

324. Delivery from Unlawful Imprisonment.—Any arrest or imprisonment may be inquired into by a judge upon a writ of *habeas corpus* and the prisoner may be discharged if the judge shall find that the detention or imprisonment is unlawful.

325. Right of Bail for Appearance at Court.—The judge shall release the prisoner on his giving ³security for appearance at court for trial, when the offense of which he is accused is one for which the law allows bail.

A justice of the peace is authorized to allow bail for certain offenses that he is not permitted to try.

326. Plea of "Twice in Jeopardy."—The constitution provides that no one for the same offense shall be put "twice in jeopardy of life or limb."

In other words, when one has been regularly tried and acquitted, he shall not be again tried for the same offense whether the punishment is death or other bodily punishment. 'Jeopardy of limb' refers to the old custom of punishing criminals by the loss of or injury to some member of his body. The custom was to burn the hand or crop the ears of those convicted of certain crimes.

When one has been convicted and punished, he has satisfied the law and he cannot be tried again and punished for the same offense. In North Carolina this is so by the common law.

327. Right of Personal Security.—Persons and their houses, papers, and possessions shall be secure from unlawful seizures and searches. ¹Warrants authorizing seizures and searches should be issued only by lawful officers and then only upon oath or other proper information. A warrant should not be general—directed at classes of individuals, undefined objects and places; they should describe the particular persons and things to be seized and the particular place which is to be searched.

²Quartering soldiers on private families is not allowed in time of peace, and in time of war it is allowed only as prescribed by law.

328. Right of Private Property.—³Private property shall not be taken even for public purposes without just compensation to the owner. The state may compel a landowner to allow a railroad to pass over his land because those building it are to serve the public, but the railroad must pay the damages.

329. Due Process of Law.—The mode of procedure in the courts should be according to the ¹“law of the land,” by ²“due process of law.”

330. The Common Law.—The common law is the established usages of English law at the time of the Revolution. It is useful as a guide for procedure in our courts and to define crime. Except in so far as its rules have been modified or altogether abrogated by our laws and institutions, it is still in force in this state.

THOUGHT QUESTIONS

1. In what ways is the study of civil government a safeguard to our rights and liberties?
2. If you were unlawfully imprisoned, what steps would be necessary in order to regain your liberty?
3. If a landowner and a railroad company differ as to the value of a piece of land on which the company desires to lay its track, how are their differences usually settled?
4. Why is the common law not in force in Louisiana?
5. If possible, attend the trial of a case and explain how the rights of the defendant were safeguarded by law.

CHAPTER XVIII

WRONGS AND THEIR REMEDIES

CLASSIFIED AND EXPLAINED

331. Public and Private Wrongs.—Wrongs are either public or private. Public wrongs are punished by the state or nation as felonies and misdemeanors. Private wrongs, such as mere civil injuries, are redressed by suits of one person against another. Sometimes one act is both a public and a private wrong; for example, when one assaults and beats another, he may be indicted and punished for the breach of the public peace, and he may be also sued in a civil action for the outrage and injury to the person.

Public wrongs consist of (1) acts which tend to disturb, embarrass, or subvert the government, a familiar example of which is treason—also called high treason; (2) acts which hinder the administration of law, as when one resists an officer lawfully authorized to make an arrest; (3) acts and neglects which injure or prejudice individuals in their persons or property and at the same time indirectly and perceptibly injure the public; as, for example, robbery and forgery. Persons who commit such offenses endanger the public if they are allowed to go unpunished.

332. Public Wrongs and Their Prevention.—Crime is defined as “any wrong which the government deems injurious to the public at large and punishes through a judicial proceeding in

its own name." Crimes are either felonies or misdemeanors. A felony, under the laws of North Carolina, is a crime which is or may be punishable by death or confinement in the penitentiary; any other crime is a misdemeanor.

Felony is not defined in federal law, but it means an offense to which is attached an infamous punishment. In English law it was followed by forfeiture of lands and goods.

A felony is tried by a court with a jury upon indictment by a grand jury. For the trial of misdemeanors—or more accurately, "petty misdemeanors,"—the general assembly may, and often does, provide other modes of trial with right of appeal.

The law's remedy for public wrong is the punishment of it, and ordinarily it waits until a violation is committed before it moves, as it does not presume wrong in any man. There is law, however, to prevent crime attempted or begun, the very attempt itself being a public offense; routs, riots, and unlawful assemblies may be lawfully dispersed by peace officers before they have resulted in more serious crimes.

OFFENSES AGAINST THE STATE

333. Principal Offenses.—Some of the principal crimes against the state are treason, murder, arson, burglary, larceny, forgery, robbery, perjury, embezzlement; some lesser crimes, or misdemeanors, are assault and battery, removing crops without permission, trespassing upon and damage to land.

334. Treason.—Treason is best defined in the language of the constitution:

²⁶"Treason against the state shall consist only in levying war

against it, or adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act or on confession in open court. No conviction of treason or attainder shall work corruption of blood or forfeiture."

The provision against 'corruption of blood' refers to the usage of the English law which visited the offense of one convicted of treason upon his children and relatives so that none of them could inherit his property; it was therefore forfeited to the government. By 'corruption of blood' the law means incapacity to inherit property, as from one's father, and incapacity to transmit property by inheritance, as to one's son.

335. Murder.—Murder in the first degree is any wilful, premeditated killing of one human being by another or killing by one who is at the time engaged in committing or is attempting to commit a felony; it is punishable by death. Murder in the second degree is any other murder; it is punishable by imprisonment in the penitentiary.

336. Arson.—Arson is the malicious burning of the dwelling house of another.

337. Burglary.—Burglary is the breaking into and entering a dwelling house at night with intent to commit felony. It is a sufficient breaking to constitute the crime if one obtains admittance by fraud or false pretence. One is guilty of burglary if he merely lifts the latch and enters or comes down the chimney, provided that the time is night and the intent felonious. Mere entry through an open window, however, is not burglary; there must be a breaking or such fraud or force in entering the dwelling as is deemed equivalent thereto.

338. Larceny.—Larceny is defined as the “felonious taking and carrying away of the personal goods of another;” or “the wrongful taking and carrying away by one person of the personal goods of another from any place with a felonious intent to convert them to his (the taker’s) own use and make them his property without the consent of the owner.”

339. Forgery.—Forgery is the fraudulent making or alteration of a writing to the prejudice of another man’s right. The essence of the crime is making an instrument of writing appear that which it is not in fact.

340. Perjury.—Perjury is false swearing before some person competent to administer an oath. Usually this swearing is before a court of competent jurisdiction on a matter material to the question under investigation.

341. Embezzlement.—Embezzlement is the fraudulent appropriation to one’s own use of money or goods intrusted to one’s care by another. It is distinguished from larceny in the fact that the original taking of the property was lawful or with the consent of the owner, while in larceny the taking must be with felonious intent. There is no exact substitute for the word felonious, though the words ‘malicious,’ ‘villianous,’ ‘perfidious,’ and ‘sometimes ‘fraudulent’ carry with them something of the same significance.

342. Punishments.—The constitution of North Carolina says:

“The following punishments only shall be known to the laws of this state, viz: death, imprisonment with or without hard labor, fines, removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under

this state. The foregoing provision for imprisonment with hard labor shall be construed to authorize the employment of such convict labor on public works or highways, or other labor for public benefit, and the farming out thereof, where and in such manner as may be provided by law." But those convicted of very high offenses, such as 'murder, burglary, and arson, are not allowed to be farmed out.

The last clause of the section just quoted says:

'Provided, that no convict whose labor may be farmed out shall be punished for any failure of duty as a laborer, except by a responsible officer of the state; but the convicts so farmed out shall be at all times under the supervision and control, as to their government and discipline, of the penitentiary board or some officer of this state."

OFFENSES AGAINST THE UNITED STATES

343. Principal Offenses.—Some of the principal offenses against the United States are treason, murder committed on the high seas or on the waters or within the forts and other places under the exclusive jurisdiction of the United States, piracy and other felonies committed on the high seas, bribery, counterfeiting, robbing the mails, and violations of the internal revenue laws.

344. The Greatest Offense.—Treason is defined in the constitution and its importance emphasized by sundry provisions:

²⁶"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of

treason unless on the testimony of two witnesses to the same overt act or on confession in open court."

"The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted."

'Attainder' is that extinction of civil rights and capacities which takes place whenever a person who has been convicted of treason or felony receives sentence of death. The effect of attainder upon the felon is that all his estate, real and personal, is forfeited, and that his blood is corrupted so that nothing passes by inheritance to, from, or through him. The constitution forbids that such a rule respecting the felon's property shall operate for a longer time than his life.

345. Crimes on the High Seas.—Piracy is the act of plundering vessels at sea without the authority of any nation. It is also defined as a robbery or forcible depredation on the high seas without lawful authority. All nations and individuals are warranted in seizing and executing pirates. The constitution gives Congress the power to define and punish piracies committed on the high seas and offenses against the law of nations.

346. Corruption in Office.—Bribery, within the meaning of the constitution, may be defined as the receiving of money or other thing of value by an officer as a reward for official conduct. Bribery, in general, is the offering of any undue reward by or to any person whomsoever whose ordinary profession or business relates to the administration of public justice, in order to influence his behavior in office and to incline

him to act contrary to his duty and the known rules of honesty and integrity. The constitution of the United States makes the following provision:

“The president, vice-president, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.”

Congress in carrying out its powers has denounced the crime of bribery and prescribed punishment for asking, accepting, or receiving bribes by public officers of the United States.

347. Tampering with the Currency.—Counterfeiting the money and securities of the United States consists in fraudulently making something in semblance of the true. To make imitation coin or treasury notes of the United States with the fraudulent intent to pass them off as money is counterfeiting.

348. Other Offenses.—The United States also punishes such offenses as robbing the mails and opening letters which have been posted.

Smuggling is another crime punishable by United States law. It is defined as the fraudulent taking into the country, or out of it, merchandise that is lawfully prohibited.

Some of the principal misdemeanors against the general government relate to violations of the laws regulating the manufacture and collection of revenue from the sale of tobacco and of whiskey and other alcoholic liquors.

There are no common law offenses against the United States. All crimes which the federal courts have power and jurisdiction to punish are mentioned in the constitution or in the statutes enacted under its authority.

This is not true, however, of this state; here some crimes, not described or denounced by any statute, are punishable by force of the common law. An example is eavesdropping. "Eavesdroppers are such as listen under walls or windows or eaves of houses to hearken after discourse and thereupon proclaim slanderous and mischievous tales."

PRIVATE WRONGS

349. Torts.—Private wrongs are commonly called torts. The ways in which one may become liable for an action or suit for tort are as follows:

(a) By actually doing to the prejudice or injury of another something he ought not to do, as going upon his lands, cutting down his trees or trampling upon his crops.

(b) By doing something that one may rightfully do, but doing it wrongfully or negligently by such means or at such times or in such manner as that another is injured. A railroad company may lawfully carry one on its train; but if it carries him so as to negligently run into another train, or carries him in cars so badly constructed as to break down, or carries him faster than is safe with the machinery and appliances employed and injury results to the person so carried without a causing fault of his own, the railroad company is liable for damages.

(c) By neglecting to do something which one ought to do whereby another suffers an injury. If the law reasonably requires a railroad to use the Janney coupler and there is a failure to provide such couplers and if a brakeman or passenger is injured as a direct result of the failure to provide such couplers, the railroad company is liable for damages.

350. Redress.—The legal redress for private injury is by civil action or other proceeding in court. Procedure in court is based upon the principle that the law provides a remedy for every wrong. On this account citizens are not encouraged in avenging their own wrongs whether public or private. There would be anarchy if every man was allowed to take the law in his own hands. Only sworn officers of the law should administer the laws.

351. Prevention.—In the administration of civil law the courts may enjoin and restrain the commission of certain wrongs which, if committed, would be irreparable. If one should go upon the premises of another and begin or be about to cut down his shade trees; or if an insolvent person,—a person not able to pay his debts and especially a judgment for damages for his wrong,—should begin or be about to commit some wrong or injury to another's property for which an action for damages is allowed by law, such person may be enjoined and restrained.

THOUGHT QUESTIONS

1. Mention a case, within your knowledge, of a public wrong; of a private wrong; of a public and private wrong.
2. Who was the great traitor of the Revolutionary War, and of what crime was he guilty?
3. Is it better to employ convicts on public works of the state than to hire them out to private individuals, or to corporations? State your reasons.
4. Mention two places at which persons convicted of crimes against the United States are confined for punishment.
5. What do you understand by the term "assault and battery"? "the high seas"? "other high crimes and misdemeanors"? "routs"?

CONCLUSION

352. A Model Citizen.—A model citizen is well informed—educated in the principles of government; he is a good neighbor—ever considerate of the health, comfort, and safety of those with whom he is associated; he is intelligently industrious—skilled and active in some useful employment.

He bears his part of the expenses of government. He consults his neighbors concerning the public welfare, promotes their frequent assembling to consider matters of common concern, and is well posted in regard to the conduct of officers who administer law and government.

He does not seek office for which he is not fitted; but he does not shirk public duty when his country needs his service, in peace or in war. In this service he is faithful and brave. As judge or juror, he is not controlled by “fear, favor, or affection, reward or the hope of reward.” He does not accept employment which is inconsistent with his duty as a citizen.

He is the friend of the poor, of widows and of orphans—the champion of the oppressed. He is the visitor of captives—swift to inquire into the causes of their imprisonment, watchful of the condition of the places where they are confined, and of the character and conduct of those who have them in custody.

He is law-abiding—keeps the law himself and is ready to assist in its enforcement. As taxpayer and voter, the supporter and constitutional master of all public servants, he assumes his share of responsibility for the administration of government.

353. A Model Administration.—A model administration of government decrees "equal and exact justice to all men of whatever state or persuasion, religious or political." It promotes "peace, commerce, and honest friendship with all nations, entangling alliances with none. It supports the state governments in all their rights as the most competent administrations for our domestic concerns, and the surest bulwarks against anti-republican tendencies." It regards "the preservation of the general government in its whole constitutional vigor as the sheet anchor of our peace at home and our safety abroad." It is watchful "with a jealous care of the right of election by the people." It commands "absolute acquiescence in the decision of the majority, the vital principle of republics." It provides and maintains "a well disciplined militia." It secures "the supremacy of the civil over the military authority, economy in the public expense that labor may be lightly burdened, the honest payment of debts and sacred preservation of public faith, encouragement of agriculture and of commerce as its handmaid, the diffusion of information, and arraignment of all abuses at the bar of public reason, freedom of religion, freedom of the press, and freedom of person under the protection of *habeas corpus*, and trial by juries impartially selected.

"These principles form a bright constellation which has gone before us and guided our steps through an age of revolution and reformation."

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CONSTITUTION OF NORTH CAROLINA

PREAMBLE

We, the people of the State of North Carolina, grateful to Almighty God, the Sovereign Ruler of Nations, for the preservation of the American Union and the existence of our civil, political and religious liberties, and acknowledging our dependence upon Him for the continuance of those blessings to us and our posterity, do for the more certain security thereof, and for the better government of this State, ordain and establish this Constitution:

ARTICLE I.—DECLARATION OF RIGHTS

That the great, general and essential principles of liberty and free government may be recognized and established, and that the relations of this State to the Union and Government of the United States, and those of the people of this State to the rest of the American people, may be defined and affirmed, we do declare:

SECTION 1. That we hold it to be self-evident that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness.

SEC. 2. That all political power is vested in, and derived from, the people; all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole.

SEC. 3. That the people of this State have the inherent, sole and exclusive right of regulating the internal government and police thereof, and of altering and abolishing their constitution and form of government whenever it may be necessary for their safety and happiness; but every such right should be exercised in pursuance of law, and consistently with the Constitution of the United States.

SEC. 4. That this State shall ever remain a member of the American Union; that the people thereof are a part of the American nation; that there is no

right on the part of the State to secede, and that all attempts, from whatever source or upon whatever pretext, to dissolve said Union, or to sever said nation, ought to be resisted with the whole power of the State.

SEC. 5. That every citizen of this State owes paramount allegiance to the Constitution and Government of the United States, and that no law or ordinance of the State in contravention or subversion thereof can have any binding force.

SEC. 6. The State shall never assume or pay, or authorize the collection of any debt or obligation, expressed or implied, incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; nor shall the General Assembly assume or pay, or authorize the collection of any tax to pay, either directly or indirectly, expressed or implied, any debt or bond incurred, or issued, by authority of the Convention of the year one thousand eight hundred and sixty-eight, nor any debt or bond, incurred or issued by the Legislature of the year one thousand eight hundred and sixty-eight, at its special session of the year one thousand eight hundred and sixty-eight, or at its regular sessions of the years one thousand eight hundred and sixty-eight and one thousand eight hundred and sixty-nine and one thousand eight hundred and seventy, except the bonds issued to fund the interest on the old debt of the State, unless the proposing to pay the same shall have first been submitted to the people and by them ratified by the vote of a majority of all the qualified voters of the State, at a regular election held for that purpose.

SEC. 7. No man or set of men are entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services.

SEC. 8. The legislative, executive and supreme judicial powers of the government ought to be forever separate and distinct from each other.

SEC. 9. All power of suspending laws, or the execution of laws, by any authority, without the consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

SEC. 10. All elections ought to be free.

SEC. 11. In all criminal prosecutions, every man has the right to be informed of the accusation against him and to confront the accusers and witnesses with other testimony, and to have counsel for his defence, and not be compelled to give evidence against himself or to pay costs, jail fees, or necessary witness fees of the defence, unless found guilty.

SEC. 12. No person shall be put to answer any criminal charge, except as hereinafter allowed, but by indictment, presentment or impeachment.

SEC. 13. No person shall be convicted of any crime but by the unanimous verdict of a jury of good and lawful men in open court. The Legislature may,

however, provide other means of trial for petty misdemeanors, with the right of appeal.

SEC. 14. Excessive bail should not be required, nor excessive fines imposed, nor cruel or unusual punishments inflicted.

SEC. 15. General warrants, whereby any officer or messenger may be commanded to search suspected places, without evidence of the act committed, or to seize any person or persons not named, whose offence is not particularly described and supported by evidence, are dangerous to liberty and ought not to be granted.

SEC. 16. There shall be no imprisonment for debt in this State, except in cases of fraud.

SEC. 17. No person ought to be taken, imprisoned, or disseized of his freehold, liberties or privileges, or outlawed or exiled, or in any manner deprived of his life, liberty or property, but by the law of the land.

SEC. 18. Every person restrained of his liberty is entitled to a remedy to enquire into the lawfulness thereof, and to remove the same, if unlawful; and such remedy ought not to be denied or delayed.

SEC. 19. In all controversies of law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people and ought to remain sacred and inviolable.

SEC. 20. The freedom of the press is one of the great bulwarks of liberty, and therefore ought never to be restrained, but every individual shall be held responsible for the abuse of the same.

SEC. 21. The privileges of the writ of *habeas corpus* shall not be suspended.

SEC. 22. As political rights and privileges are not dependent upon, or modified by, property, therefore no property qualification ought to affect the right to vote or hold office.

SEC. 23. The people of the State ought not to be taxed, or made subject to the payment of any impost or duty without the consent of themselves, or their representatives in General Assembly freely given.

SEC. 24. A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed; and, as standing armies in time of peace are dangerous to liberty, they ought not to be kept up, and the military should be kept under strict subordination to, and governed by, the civil power. Nothing herein contained shall justify the practice of carrying concealed weapons, or prevent the Legislature from enacting penal statutes against said practice.

SEC. 25. The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the Legislature

for redress of grievances. But secret political societies are dangerous to the liberties of a free people, and should not be tolerated.

SEC. 26. All men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences, and no human authority should, in any case whatever, control or interfere with the rights of conscience.

SEC. 27. The people have the right to the privilege of education, and it is the duty of the State to guard and maintain that right.

SEC. 28. For redress of grievances, and for amending and strengthening the laws, elections should be often held.

SEC. 29. A frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

SEC. 30. No hereditary emoluments, privileges or honors ought to be granted or conferred in this State.

SEC. 31. Perpetuities and monopolies are contrary to the genius of a free State, and ought not to be allowed.

SEC. 32. Retrospective laws, punishing acts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust and incompatible with liberty; wherefore no *ex post facto* law ought to be made. No law taxing retrospectively sales, purchases, or other acts previously done, ought to be passed.

SEC. 33. Slavery and involuntary servitude, otherwise than for crime, whereof the parties shall have been duly convicted, shall be and are hereby forever prohibited within the State.

SEC. 34. The limits and boundaries of the State shall be and remain as they now are.

SEC. 35. All courts shall be open; and every person for an injury done him in his lands, goods, person or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial or delay.

SEC. 36. No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner prescribed by law.

SEC. 37. This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers not herein delegated remain with the people.

ARTICLE II.—LEGISLATIVE DEPARTMENT

SECTION 1. The legislative authority shall be vested in two distinct branches, both dependent on the people, to-wit, a Senate and House of Representatives.

SEC. 2. The Senate and House of Representatives shall meet biennially on the first Wednesday after the first Monday in January next after their

election; and, when assembled, shall be denominated the General Assembly. Neither House shall proceed upon public business unless a majority of all the members are actually present.

SEC. 3. The Senate shall be composed of fifty Senators, biennially chosen by ballot.

SEC. 4. The Senate Districts shall be so altered by the General Assembly, at the first session after the return of every enumeration by order of Congress, that each Senate District shall contain, as near as may be, an equal number of inhabitants, excluding aliens and Indians not taxed, and shall remain unaltered until the return of another enumeration, and shall at all times consist of contiguous territory; and no county shall be divided in the formation of a Senate District, unless such county shall be equitably entitled to two or more Senators.

SEC. 5. The House of Representatives shall be composed of one hundred and twenty Representatives, biennially chosen by ballot, to be elected by the counties respectively, according to their population, and each county shall have at least one representative in the House of Representatives, although it may not contain the requisite ratio of representation; this apportionment shall be made by the General Assembly at the respective times and periods when the Districts of the Senate are hereinbefore directed to be laid off.

SEC. 6. In making the apportionment in the House of Representatives, the ratio of representation shall be ascertained by dividing the amount of the population of the State, exclusive of that comprehended within those counties which do not severally contain the one hundred and twentieth part of the population of the State, by the number of Representatives, less the number assigned to such counties; and in ascertaining the number of the population of the State, aliens and Indians not taxed shall not be included. To each county containing the said ratio and not twice the said ratio, there shall be assigned one Representative; to each county containing two but not three times the said ratio, there shall be assigned two Representatives, and so on progressively, and then the remaining Representatives shall be assigned severally to the counties having the largest fractions.

SEC. 7. Each member of the Senate shall not be less than twenty-five years of age, shall have resided in the State as a citizen two years, and shall have usually resided in the District for which he is chosen, one year immediately preceding his election.

SEC. 8. Each member of the House of Representatives shall be a qualified elector of the State, and shall have resided in the county for which he is chosen, for one year immediately preceding his election.

SEC. 9. In the election of all officers, whose appointment shall be conferred upon the generally Assembly by the Constitution, the vote shall be *viva voce*.

SEC. 10. The General Assembly shall have the power to pass general laws regulating divorce and alimony, but shall not have power to grant a divorce or secure alimony in any individual case.

SEC. 11. The General Assembly shall not have power to pass any private law to alter the name of any person, or to legitimate any person not born in lawful wedlock, or to restore to the rights of citizenship any person convicted of an infamous crime, but shall have power to pass general laws regulating the same.

SEC. 12. The General Assembly shall not pass any private law, unless it shall be made to appear that thirty days' notice of application to pass such a law shall have been given, under such direction and in such manner as shall be provided by law.

SEC. 13. If vacancies shall occur in the General Assembly by death, resignation or otherwise, writs of election shall be issued by the Governor under such regulations as may be prescribed by law.

SEC. 14. No law shall be passed to raise money on the credit of the State, or to pledge the faith of the State, directly or indirectly, for the payment of any debt, or to impose any tax upon the people of the State, or allow the counties, cities or towns to do so, unless the bill for the purpose shall have been read three several times in each House of the General Assembly and passed three several readings, which readings shall have been on three different days, and agreed to by each House respectively, and unless the yeas and nays on the second and third readings of the bill shall have been entered on the journal.

SEC. 15. The General Assembly shall regulate entails in such manner as to prevent perpetuities.

SEC. 16. Each House shall keep a journal of its proceedings, which shall be printed and made public immediately after the adjournment of the General Assembly.

SEC. 17. Any member of either House may dissent from and protest against any act or resolve, which he may think injurious to the public, or any individual, and have the reasons of his dissent entered on the journal.

SEC. 18. The House of Representatives shall choose their own Speaker and other officers.

SEC. 19. The Lieutenant-Governor shall preside in the Senate, but shall have no vote unless it may be equally divided.

SEC. 20. The Senate shall choose its other officers and also a Speaker (*pro tempore*) in the absence of the Lieutenant-Governor, or when he shall exercise the office of Governor.

SEC. 21. The style of the acts shall be: "The General Assembly of North Carolina do enact."

SEC. 22. Each House shall be judge of the qualifications and election of its own members, shall sit upon its own adjournment from day to day, prepare bills to be passed into laws; and the two Houses may also jointly adjourn to any future day or other place.

SEC. 23. All bills and resolutions of a legislative nature shall be read three times in each House, before they pass into laws; and shall be signed by the presiding officer of both Houses.

SEC. 24. Each member of the General Assembly, before taking his seat, shall take an oath or affirmation that he will support the Constitution and laws of the United States, and the Constitution of the State of North Carolina, and will faithfully discharge his duty as a member of the Senate or House of Representatives.

SEC. 25. The terms of office for Senator and members of the House of Representatives shall commence at the time of their election.

SEC. 26. Upon motion made and seconded in either house by one-fifth of the members present, the yeas and nays upon any question shall be taken and entered upon the journals.

SEC. 27. The election for members of the General Assembly shall be held for the respective districts and counties, at the places where they are now held, or may be directed hereafter to be held, in such manner as may be prescribed by law, on the first Thursday in August, in the year one thousand eight hundred and seventy, and every two years thereafter. But the General Assembly may change the time of holding the elections.

SEC. 28. The members of the General Assembly for the term for which they have been elected shall receive as a compensation for their services the sum of *four dollars* per day for each day of their session, for a period not exceeding sixty days; and should they remain longer in session, they shall serve without compensation. They shall also be entitled to receive ten cents per mile, both while coming to the seat of government and while returning home, the said distance to be computed by the nearest line or route of public travel. The compensation of the presiding officers of the two Houses shall be six dollars per day and mileage. Should an extra session of the General Assembly be called, the members and presiding officers shall receive a like rate of compensation for a period not exceeding twenty days.

ARTICLE III.—EXECUTIVE DEPARTMENT

SECTION 1. The Executive Department shall consist of a Governor, in whom shall be vested the supreme executive power of the State, a Lieutenant-Governor, a Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, and an Attorney-General, who shall be elected for a term of four years by the qualified electors of the State, at the same time and places and in the same manner as members of the General Assembly are elected. Their term of office shall commence on the first day of January next after their election, and continue until their successors are elected and qualified: *Provided*, that the officers first elected shall assume the duties of their office ten days after the approval of this Constitution by the Congress of the United States, and shall hold their offices four years from and after the first day of January.

SEC. 2. No person shall be eligible as Governor or Lieutenant-Governor unless he shall have attained the age of thirty years, shall have been a citizen of the United States five years, and shall have been a resident of this State for two years next before the election; nor shall the person elected to either of these two offices be eligible to the same office more than four years in any term of eight years, unless the office shall have been cast upon him as Lieutenant-Governor or President of the Senate.

SEC. 3. The return of every election for officers of the Executive Department shall be sealed up and transmitted to the seat of government by the returning officers, directed to the Speaker of the House of Representatives, who shall open and publish the same in the presence of a majority of the members of both Houses of the General Assembly. The person having the highest number of votes respectively shall be declared duly elected; but if two or more be equal and highest in votes for the same office, the one of them shall be chosen by joint ballot of both Houses of the General Assembly. Contested elections shall be determined by a joint ballot of both Houses of the General Assembly in such manner as shall be prescribed by law.

SEC. 4. The Governor, before entering upon the duties of his office shall, in the presence of the members of both branches of the General Assembly, or before any Justice of the Supreme Court, take an oath or affirmation that he will support the Constitution and laws of the United States, and of the State of North Carolina, and that he will faithfully perform the duties appertaining to the office of Governor, to which he has been elected.

SEC. 5. The Governor shall reside at the seat of government of this State, and he shall, from time to time, give the General Assembly information of the

affairs of the State, and recommend to their consideration such measures as he shall deem expedient.

SEC. 6. The Governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offences (except in cases of impeachment), upon such conditions as he may think proper, subject to such regulations as may provided be by law relative to the manner of applying for pardons. He shall biennially communicate to the General Assembly each case of reprieve, commutation or pardon granted, stating the name of each convict, the crime for which he was convicted, the sentence and its date, the date of the commutation, pardon or reprieve and the reasons therefor.

SEC. 7. The officers of the Executive Department and of the public institutions of the State, shall at least five days previous to each regular session of the General Assembly, severally report to the Governor, who shall transmit such reports with his message to the General Assembly, and the Governor may, at any time, require information in writing from the officers in the Executive Department upon any subject relating to the duties of their respective offices, and shall take care that the laws be faithfully executed.

SEC. 8. The Governor shall be Commander-in-Chief of the militia of the State, except when they shall be called into the service of the United States.

SEC. 9. The Governor shall have power, on extraordinary occasions, by and with the advice of the Council of State, to convene the General Assembly in extra session by his proclamation, stating therein the purpose or purposes for which they are thus convened.

SEC. 10. The Governor shall nominate and, by and with the advice and consent of a majority of the Senators-elect, appoint all officers whose offices are established by this Constitution and whose appointments are not otherwise provided for.

SEC. 11. The Lieutenant-Governor shall be president of the Senate, but shall have no vote unless the Senate shall be equally divided. He shall, whilst acting as President of the Senate, receive for his services the same pay which shall, for the same period, be allowed to the Speaker of the House of Representatives; and he shall receive no other compensation except when he is acting as Governor.

SEC. 12. In case of the impeachment of the Governor, his failure to qualify, his absence from the State, his inability to discharge the duties of his office, or, in case the office of Governor shall in anywise become vacant, the powers, duties and emoluments of the office shall devolve upon the Lieutenant-Governor until the disability shall cease, or a new Governor shall be elected and qualified. In every case in which the Lieutenant-Governor shall be unable to preside over the

Senate, the Senators shall elect one of their own number President of their body; and the powers, duties and emoluments of the office of Governor shall devolve upon him whenever the Lieutenant-Governor shall, for any reason, be prevented from discharging the duties of such office as above provided, and he shall continue as acting Governor until the disabilities are removed, or a new Governor or Lieutenant-Governor shall be elected and qualified. Whenever, during the recess of the General Assembly, it shall become necessary for the President of the Senate to administer the government, the Secretary of State shall convene the Senate, that they may elect such President.

SEC. 13 The respective duties of the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, and Attorney-General shall be prescribed by law. If the office of any of said officers shall be vacated by death, resignation or otherwise, it shall be the duty of the Governor to appoint another until the disability be removed or his successor be elected and qualified. Every such vacancy shall be filled by election at the first general election that occurs more than thirty days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in the first section of this article.

SEC. 14, The Secretary of State, Auditor, Treasurer and Superintendent of Public Instruction shall constitute, *ex officio*, the Council of State, who shall advise the Governor in the execution of his office, and three of whom shall constitute a quorum. Their advice and proceedings in this capacity shall be entered in a journal to be kept for this purpose exclusively, and signed by the members present, from any part of which any member may enter his dissent; and such journal shall be placed before the General Assembly when called for by either House. The Attorney-General shall be, *ex officio*, the legal adviser of the Executive Department.

SEC. 15. The officers mentioned in this article, shall, at stated periods, receive for their services a compensation to be established by law, which shall neither be increased nor diminished during the time for which they shall have been elected, and the said officers shall receive no other emolument or allowance whatever.

SEC. 16. There shall be a seal of the State, which shall be kept by the Governor, and used by him as occasion may require, and shall be called "The Great Seal of the State of North Carolina." All grants and commissions shall be issued in the name and by the authority of the State of North Carolina, sealed with "The Great Seal of the State," signed by the Governor and countersigned by the Secretary of State.

SEC. 17. The General Assembly shall establish a Department of Agriculture, Immigration and Statistics, under such regulations as may best promote the agricultural interests of the State, and shall enact laws for the adequate protection and encouragement of sheep husbandry.

ARTICLE IV.—JUDICIAL DEPARTMENT.

SECTION 1. The distinctions between actions at law and suits in equity, and the forms of all such actions and suits, shall be abolished; and there shall be in this State but one form or action for the enforcement or protection of private rights or the redress of private wrongs, which shall be denominated a civil action; and every action prosecuted by the people of the State as a party against a person charged with a public offense, for the punishment of the same, shall be termed a criminal action. Feigned issues shall also be abolished, and the fact at issue tried by order of Court before a jury.

SEC. 2. The judicial power of the State shall be vested in a court for the trial of Impeachments, a Supreme Court, Superior Courts, Courts of Justices of the Peace, and such other Courts inferior to the Supreme Court as may be established by law.

SEC. 3. The Court for the trial of Impeachments shall be the Senate. A majority of the members shall be necessary to a quorum, and the judgment shall not extend beyond removal from, and disqualification to hold, office in this State; but the party shall be liable to indictment and punishment according to law.

SEC. 4. The House of Representatives solely shall have the power of impeaching. No person shall be convicted without the concurrence of two-thirds of the Senators present. When the Governor is impeached, the Chief Justice shall preside.

SEC. 5. Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open Court. No conviction of treason or attainder shall work corruption of blood or forfeiture.

SEC. 6. The Supreme Court shall consist of a Chief Justice and four Associate Justices.

SEC. 7. The terms of the Supreme Court shall be held in the city of Raleigh, as now, unless otherwise provided by the General Assembly.

SEC. 8. The Supreme Court shall have jurisdiction to review, upon appeal, any decision of the Courts below, upon any matter of law or legal inference. And the jurisdiction of said Court over "issues of fact" and "questions of fact"

shall be the same exercised by it before the adoption of the Constitution of one thousand eight hundred and sixty-eight, and the Courts shall have the power to issue any remedial writs necessary to give it a general supervision and control over the proceedings of the Inferior Courts.

SEC. 9. The Supreme Court shall have original jurisdiction to hear claims against the State, but its decisions shall be merely recommendatory; no process in the nature of execution shall issue thereon; they shall be reported to the next session of the General Assembly for its action.

SEC. 10. The State shall be divided into nine judicial districts, for each of which a judge shall be chosen; and there shall be held a Superior Court in each county at least twice in each year, to continue for such time in each county as may be prescribed by law. But the General Assembly may reduce or increase the number of districts.

SEC. 11. Every Judge of the Superior Court shall reside in the district for which he is elected. The Judges shall preside in the Courts of the different districts successively, but no Judge shall hold the Courts in the same district oftener than once in four years; but in case of the protracted illness of the Judge assigned to preside in any district, or of any other unavoidable accident to him, by reason of which he shall be unable to preside, the Governor may require any Judge to hold one or more specified terms in said district, in lieu of the Judge assigned to hold the Courts of the said district.

SEC. 12. The General Assembly shall have no power to deprive the Judicial Department of any power or jurisdiction which rightfully pertains to it as a co-ordinate department of the government; but the General Assembly shall allot and distribute that portion of this power and jurisdiction which does not pertain to the Supreme Court, among the other Courts prescribed in this Constitution or which may be established by law, in such manner as it may deem best; provide also a proper system of appeals, and regulate by law, when necessary, the methods of proceeding in the exercise of their powers, of all the Courts below the Supreme Court, so far as the same may be done without conflict with other provisions of this Constitution.

SEC. 13. In all issues of fact, joined in any Court, the parties may waive the right to have the same determined by a jury, in which case the finding of the Judge upon the facts shall have the force and effect of a verdict by a jury.

SEC. 14. The General Assembly shall provide for the establishment of Special Courts, for the trial of misdemeanors, in cities and towns where the same may be necessary.

SEC. 15. The Clerk of the Supreme Court shall be appointed by the Court, and shall hold his office for eight years.

SEC. 16. A Clerk of the Superior Court for each county shall be elected by the qualified voters thereof, at the time and in the manner prescribed by law for the election of members of the General Assembly.

SEC. 17. Clerks of the Superior Courts shall hold their offices for four years.

SEC. 18. The General Assembly shall prescribe and regulate the fees salaries and emoluments of all officers provided for in this article; but the salaries of the Judges shall not be diminished during their continuance in office.

SEC. 19. The laws of North Carolina, not repugnant to this Constitution, or the Constitution and laws of the United States, shall be in force until lawfully altered.

SEC. 20. Actions at law, and suits in equity, pending when this Constitution shall go into effect, shall be transferred to the Courts having jurisdiction thereof, without prejudice by reason of the change, and all such actions and suits commenced before, and pending at the adoption by the General Assembly of the rules of practice and procedure herein provided for, shall be heard and determined according to the practice now in use, unless otherwise provided for by said rules.

SEC. 21. The Justices of the Supreme Court shall be elected by the qualified voters of the State, as is provided for the election of members of the General Assembly. They shall hold their offices for eight years. The Judges of the Superior Courts, elected at the first election under this amendment, shall be elected in like manner as is provided for Justices of the Supreme Court, and shall hold their offices for eight years. The General Assembly may, from time to time, provide by law that the Judges of the Superior Courts, chosen at succeeding elections, instead of being elected by the voters of the whole State, as is herein provided for, shall be elected by the voters of their respective districts.

SEC. 22. The Superior Court shall be at all times open for the transaction of all business within their jurisdiction, except the trial of issues of fact requiring a jury.

SEC. 23. A Solicitor shall be elected for each Judicial District by the qualified voters thereof, as is prescribed for members of the General Assembly, who shall hold office for the term of four years, and prosecute on behalf of the State, in all criminal actions in the Superior Courts, and advise the officers of justice in his district.

SEC. 24. In each county a Sheriff and Coroner shall be elected by the qualified voters thereof, as is prescribed for members of the General Assembly, and shall hold their offices for two years. In each township there shall be a Constable elected in like manner by the voters thereof, who shall hold his office

for two years. When there is no Coroner in a county, the Clerk of the Superior Court for the county may appoint one for special cases. In case of a vacancy existing for any cause in any of the offices created by this section, the Commissioners of the county may appoint to such office for the unexpired term.

SEC. 25. All vacancies occurring in the offices provided for by this Article of the Constitution shall be filled by the appointments of the Governor, unless otherwise provided for, and the appointees shall hold their places until the next regular election for members of the General Assembly, when elections shall be held to fill such offices. If any person, elected or appointed to any of said offices, shall neglect and fail to qualify, such offices shall be appointed to, held and filled as provided in case of vacancies occurring therein. All incumbents of said office shall hold until their successors are qualified.

SEC. 26. The officers elected at the first election held under this Constitution shall hold their offices for the terms prescribed for them respectively, next ensuing after the next regular election for members of the General Assembly. But their terms shall begin upon the approval of this Constitution by the Congress of the United States.

SEC. 27. The several Justices of the Peace shall have jurisdiction, under such regulations as the General Assembly shall prescribe, of civil actions, founded on contract, wherein the sum demanded shall not exceed two hundred dollars, and wherein the title to real estate shall not be in controversy; and of all criminal matters arising within their counties where the punishment cannot exceed a fine of fifty dollars or imprisonment for thirty days. And the General Assembly may give to Justices of the Peace jurisdiction of other civil actions, wherein the value of the property in controversy does not exceed fifty dollars. When an issue of fact shall be joined before a Justice, on demand of either party thereto, he shall cause a jury of six men to be summoned, who shall try the same. The party against whom judgment shall be rendered in any civil action, may appeal to the Superior Court from the same. In all cases of a criminal nature, the party against whom judgment is given may appeal to the Superior Court, where the matter shall be heard anew. In all cases brought before a justice, he shall make a record of the proceedings and file the same with the Clerk of the Superior Court for his county.

SEC. 28. When the office of Justice of the Peace shall become vacant otherwise than by expiration of the term, and in case of a failure by the voters of any district to elect, the Clerk of the Superior Court for the county shall appoint to fill the vacancy for the unexpired term.

SEC. 29. In case the office of Clerk of a Superior Court for a county shall become vacant otherwise than by the expiration of the term, and in case of a

failure by the people to elect, the Judge of the Superior Court for the county shall appoint to fill the vacancy until an election can be regularly held.

SEC. 30. In case the General Assembly shall establish other Courts inferior to the Supreme Court, the presiding officers and clerks thereof shall be elected in such manner as the General Assembly may from time to time prescribe, and they shall hold their offices for a term not exceeding eight years.

SEC. 31. Any Judge of the Supreme Court or of the Superior Courts, and the presiding officers of such Courts inferior to the Supreme Court as may be established by law, may be removed from office for mental or physical inability, upon a concurrent resolution of two-thirds of both Houses of the General Assembly. The Judge or presiding officer, against whom the General Assembly may be about to proceed, shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least twenty days before the day on which either House of the General Assembly shall act thereon.

SEC. 32. Any Clerk of the Supreme Court, or of the Superior Courts, or of such Courts inferior to the Supreme Court as may be established by law, may be removed from office for mental or physical inability; the Clerk of the Supreme Court by the Judges of said Court, the Clerks of the Superior Courts by the Judge riding the district, and the Clerks of such Courts inferior to the Supreme Court as may be established by law by the presiding officers of said Courts. The Clerk against whom proceedings are instituted shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least ten days before the day appointed to act thereon, and the Clerk shall be entitled to an appeal to the next term of the Superior Court, and thence to the Supreme Court as provided in other cases of appeals.

SEC. 33. The amendments made to the Constitution of North Carolina by this Convention shall not have the effect to vacate any office or term of office now existing under the Constitution of the State and filled, or held by virtue of any election or appointment under the said Constitution and the laws of the State made in pursuance thereof.

ARTICLE V.—REVENUE AND TAXATION

SECTION 1. The General Assembly shall levy a capitation tax on every male inhabitant in the State over twenty-one and under fifty years of age, which shall be equal on each to the tax on property valued at three hundred dollars each. The Commissioners of the several counties may exempt from capitation tax in special cases, on account of poverty and infirmity, and the State and county capitation tax combined shall never exceed two dollars on the head.

SEC. 2. The proceeds of the State and county capitation shall tax be applied

to the purposes of education and the support of the poor, but in no one year shall more than twenty-five per cent thereof be appropriated to the latter purpose.

SEC. 3. Laws shall be passed taxing, by a uniform rule, all moneys, credits, investments in bonds, stocks, joint-stock companies, or otherwise; and, also, all real and personal property, according to its true value in money. The General Assembly may also tax trades, professions, franchises, and incomes, provided that no income shall be taxed when the property from which the income is derived is taxed.

SEC. 4. Until the bonds of the State shall be at par, the General Assembly shall have no power to contract any new debt or pecuniary obligation in behalf of the State, except to supply a casual deficit, or for suppressing invasions or insurrections, unless it shall in the same bill levy a special tax to pay the interest annually. And the General Assembly shall have no power to give or lend the credit of the State in aid of any person, association or corporation, except to aid in the completion of such railroads as may be unfinished at the time of the adoption of this Constitution, or in which the State has a direct pecuniary interest, unless the subject be submitted to a direct vote of the people of the State, and be approved by the majority of those who shall vote thereon.

SEC. 5. Property belonging to the State, or to municipal corporations, shall be exempt from taxation. The General Assembly may exempt cemeteries and property held for educational, scientific, literary, charitable or religious purposes; also wearing apparel, arms for muster, household and kitchen furniture, the mechanical and agricultural implements of mechanics and farmers, libraries and scientific instruments or any other personal property, to a value not exceeding three hundred dollars.

SEC. 6. The taxes levied by the commissioners of the several counties for county purposes shall be levied in like manner with the State taxes and shall never exceed the double of the State tax, except for a special purpose, and with the special approval of the General Assembly.

SEC. 7. Every act of the General Assembly levying a tax shall state the special object to which it is to be applied, and it shall be applied to no other purpose.

ARTICLE VI.—SUFFRAGE AND ELIGIBILITY TO OFFICE

SECTION 1. Every male person born in the United States, and every male person who has been naturalized, twenty-one years of age, and possessing the qualifications set out in this Article, shall be entitled to vote at any election by the people in the State, except as herein otherwise provided.

SEC. 2. He shall have resided in the State of North Carolina for two years, in the county six months, and in the precinct, ward or other election district,

in which he offers to vote, four months next preceding the election: *Provided*, that removal from one precinct, ward or other election district, to another in the same county, shall not operate to deprive any person of the right to vote in the precinct, ward or other election district from which he has removed until four months after such removal. No person who has been convicted, or who has confessed his guilt in open Court upon indictment, of any crime, the punishment of which now is, or may hereafter be imprisonment in the State's Prison shall be permitted to vote unless the said person shall be first restored to citizenship in the manner prescribed by law.

SEC. 3. Every person offering to vote shall be at the time a legally registered voter as herein prescribed and in the manner hereafter provided by law, and the General Assembly of North Carolina shall enact general registration laws to carry into effect the provisions of this article.

SEC. 4. Every person presenting himself for registration shall be able to read and write any section of the Constitution in the English language; and before he shall be entitled to vote, he shall have paid, on or before the first day of May of the year in which he proposes to vote, his poll tax for the previous year as prescribed by Article V, sec. 1, of the Constitution. But no male person who was on January 1, 1867, or at any time prior thereto, entitled to vote under the laws of any State in the United States wherein he then resided, and no lineal descendant of any such person shall be denied the right to register and vote at any election in this State by reason of his failure to possess the educational qualifications herein prescribed: *Provided*, he shall have registered in accordance with the terms of this section prior to December 1, 1908. The General Assembly shall provide for the registration of all persons entitled to vote without the educational qualifications herein prescribed, and shall, on or before November 1, 1908, provide for the making of a permanent record of such registration, and all persons so registered shall forever thereafter have the right to vote in all elections by the people in this State, unless disqualified under section 2 of this Article: *Provided*, such person shall have paid his poll tax as above required.

SEC. 5. That this amendment to the Constitution is presented and adopted as one indivisible plan for the regulation of the suffrage, with the intent and purpose to so connect the different parts and to make them so dependent upon each other that the whole shall stand or fall together.

SEC. 6. All elections by the people shall be by ballot, and all elections by the General Assembly shall be *viva voce*.

SEC. 7. Every voter in North Carolina, except as in this Article disqualified, shall be eligible to office, but before entering the duties of the office he shall take and subscribe the following oath:

"I, ... do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as So help me, God."

SEC. 8. The following classes of persons shall be disqualified for office; *First*, all persons who shall deny the being of Almighty God. *Second*, all persons who shall have been convicted or confessed their guilt on indictment pending, and whether sentenced or not, or under judgment, suspended, of any treason or felony, or of any other crime for which the punishment may be imprisonment in the penitentiary, since becoming citizens of the United States, or of corruption or malpractice in office, unless such person shall be restored to the rights of citizenship in a manner prescribed by law.

SEC. 9. That this amendment to the Constitution shall go into effect on the first day of July, nineteen hundred and two, if a majority of votes cast at the next general election shall be cast in favor of this suffrage amendment.

ARTICLE VII.—MUNICIPAL CORPORATIONS

SECTION 1. In each county there shall be elected biennially by the qualified voters thereof, as provided for the election of members of the General Assembly, the following officers: A Treasurer, Register of Deeds, Surveyor and five Commissioners.

SEC. 2. It shall be the duty of the Commissioners to exercise a general supervision and control of the penal and charitable institutions, schools, roads, bridges, levying of taxes, and finances of the county, as may be prescribed by law. The Register of Deeds shall be, *ex officio*, Clerk of the Board of Commissioners.

SEC. 3. It shall be the duty of the Commissioners first elected in each county to divide the same into convenient districts, and to report the same to the General Assembly before the first day of January, 1869.

SEC. 4. Upon the approval of the reports provided for in the foregoing section by the General Assembly, the said districts shall have corporate powers for the necessary purposes of local government, and shall be known as townships.

SEC. 5. In each township there shall be biennially elected by the qualified voters thereof a Clerk and two Justices of the Peace, who shall constitute a Board of Trustees, and shall, under the supervision of the County Commissioners, have control of the taxes and finances, roads and bridges of the town-

ship, as may be prescribed by law. The General Assembly may provide for the election of a larger number of the Justices of the Peace in cities and towns and in those townships in which cities and towns are situated. In every township there shall also be biennially elected a School Committee, consisting of three persons, whose duties shall be prescribed by law.

SEC. 6. The Township Board of Trustees shall assess the taxable property of their townships and make returns to the County Commissioners for revision, as may be prescribed by law. The Clerk shall be, *ex officio*, Treasurer of the township.

SEC. 7. No county, city, or town or other municipal corporation shall contract any debt, pledge its faith or loan its credit, nor shall any tax be levied or collected by any officers of the same except for the necessary expenses thereof, unless by vote of the majority of the qualified voters therein.

SEC. 8. No money shall be drawn from any county or township treasury except by authority of law.

SEC. 9. All taxes levied by any county, city, town or township shall be uniform and *ad valorem* upon all property in the same, except property exempted by this Constitution.

SEC. 10. The county officers first elected under the provisions of this Article shall enter upon their duties ten days after the approval of this Constitution by the Congress of the United States.

SEC. 11. The Governor shall appoint a sufficient number of Justices of the Peace in each county, who shall hold their places until sections four, five and six of this Article shall have been carried into effect.

SEC. 12. All charters, ordinances and provisions relating to municipal corporations shall remain in force until legally changed, unless inconsistent with the provisions of this Constitution.

SEC. 13. No county, city, town or other municipal corporation shall assume to pay, nor shall any tax be levied or collected for the payment of any debt, or the interest upon any debt, contracted directly or indirectly in aid or support of the rebellion.

SEC. 14. The General Assembly shall have full power by statute to modify, change, or abrogate any and all of the provisions of this Article and substitute others in their place, except sections seven, nine and thirteen.

ARTICLE VIII.—CORPORATIONS OTHER THAN MUNICIPAL

SECTION. 1. Corporations may be formed under general laws, but shall not be created by special act except for municipal purposes and in cases where, in the judgment of the Legislature, the object of the corporation cannot be

attained under general laws. All general laws and special acts passed pursuant to this section may be altered from time to time or repealed.

SEC. 2. Dues from corporations shall be secured by such individual liabilities of the corporations and other means as may be prescribed by law.

SEC. 3. The term corporation, as used in this Article, shall be construed to include all associations and joint-stock companies having any of the powers and privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue and shall be subject to be sued in all courts in like cases as natural persons.

SEC. 4. It shall be the duty of the Legislature to provide for the organization of cities, towns and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts and loaning their credit, so as to prevent abuses in assessment and in contracting debts by such municipal corporations.

ARTICLE IX. —EDUCATION

SECTION 1. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

SEC. 2. The General Assembly, at its first session under this Constitution, shall provide by taxation and otherwise for a general and uniform system of public schools, wherein tuition shall be free of charge to all the children of the State between the ages of six and twenty-one years. And the children of the white race and the children of the colored race shall be taught in separate public schools; but there shall be no discrimination in favor of or to the prejudice of either race.

SEC. 3. Each county of the State shall be divided into a convenient number of districts, in which one or more public schools shall be maintained at least four months in every year; and if the Commissioners of any county shall fail to comply with the aforesaid requirements of this section they shall be liable to indictment.

SEC. 4. The proceeds of all lands that have been or hereafter may be granted by the United States to this State and not otherwise appropriated by this State or the United States; also all moneys, stocks, bonds and other property now belonging to any State fund for purposes of education; also the net proceeds of all sales of the swamp lands belonging to the State, and all other grants, gifts or devises that have been or hereafter may be made to the State and not otherwise appropriated by the State or by the terms of the grant, gift or devise, shall be paid into the State Treasury; and, together with so much of the ordinary revenue of the State as may be by law set apart for that purpose, shall be

faithfully appropriated for establishing and maintaining in this State a system of free public schools and for no other uses or purposes whatsoever.

SEC. 5. All moneys, stocks, bonds and other property belonging to a county school fund; also the net proceeds from the sale of estrays; also the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal or military laws of the State; and all moneys which shall be paid by persons as an equivalent for exemption from military duty, shall belong to and remain in the several counties, and shall be faithfully appropriated for establishing and maintaining free public schools in the several counties in this State: *Provided*, that the amount collected in each county shall be annually reported to the Superintendent of Public Instruction.

SEC. 6. The General Assembly shall have power to provide for the election of Trustees of the University of North Carolina, in whom, when chosen, shall be vested all the privileges, rights, franchises and endowments thereof in any-wise granted to or conferred upon the Trustees of said University; and the General Assembly may make such provisions, laws and regulations from time to time as may be necessary and expedient for the maintenance and management of said University.

SEC. 7. The General Assembly shall provide that the benefits of the University, as far as practicable, be extended to the youth of the State free of expense for tuition; also that all the property which has heretofore accrued to the State or shall hereafter accrue from escheats, unclaimed dividends or distributive shares of the estates of deceased persons, shall be appropriated to the use of the University.

SEC. 8. The Governor, Lieutenant-Governor, Secretary of State, Treasurer, Auditor, Superintendent of Public Instruction and Attorney-General shall constitute a State Board of Education.

SEC. 9. The Governor shall be President and the Superintendent of Public Instruction shall be Secretary of the Board of Education.

SEC. 10. The Board of Education shall succeed to all the powers and trusts of the President and Directors of the Literary Fund of North Carolina, and shall have full power to legislate and make all needful rules and regulations in relation to free public schools and the educational fund of the State; but all acts, rules and regulations of said Board may be altered, amended or repealed by the General Assembly, and when so altered, amended or repealed they shall not be re-enacted by the Board.

SEC. 11. The first session of the Board of Education shall be held at the capital of the State within fifteen days after the organization of the State Government under this Constitution; the time of future meetings may be determined by the Board.

SEC. 12. A majority of the Board shall constitute a quorum for the transaction of business.

SEC. 13. The contingent expenses of the Board shall be provided by the General Assembly.

SEC. 14. As soon as practicable after the adoption of this Constitution the General Assembly shall establish and maintain in connection with the University a department of agriculture, of mechanics, of mining and of normal instruction.

SEC. 15. The General Assembly is hereby empowered to enact that every child of sufficient mental and physical ability shall attend the public schools during the period between the ages of six and eighteen years for a term of not less than sixteen months, unless educated by other means.

ARTICLE X.—HOMESTEADS AND EXEMPTIONS

SECTION 1. The personal property of any resident of this State to the value of five hundred dollars, to be selected by such resident, shall be and is hereby exempted from sale under execution or other final process of any court issued for the collection of any debt.

SEC. 2. Every homestead, and the dwellings and buildings used therewith, not exceeding in value one thousand dollars, to be selected by the owner thereof, or in lieu thereof, at the option of the owner, any lot in a city, town or village, with the dwellings and buildings used thereon, owned and occupied by any resident of this State, and not exceeding the value of one thousand dollars, shall be exempt from sale under execution or other final process obtained on any debt. But no property shall be exempt from sale for taxes or for payment of obligations contracted for the purchase of said premises.

SEC. 3. The homestead, after the death of the owner thereof, shall be exempt from the payment of any debt during the minority of his children or any one of them.

SEC. 4. The provisions of sections one and two of this Article shall not be so construed as to prevent a laborer's lien for work done and performed for the person obtaining such exemption, or a mechanic's lien for work done on the premises.

SEC. 5. If the owner of a homestead die, leaving a widow but no children, the same shall be exempt from the debts of her husband, and the rents and profit thereof shall inure to her benefit during her widowhood, unless she be the owner of a homestead in her own right.

SEC. 6. The real and personal property of any female in this State acquired before marriage, and all property, real and personal, to which she may, after

marriage, become in any manner entitled, shall be and remain the sole and separate estate and property of such female, and shall not be liable for any debts, obligations or engagements of her husband, and may be devised and bequeathed, and, with the written assent of her husband, conveyed by her as if she were unmarried.

SEC. 7. The husband may insure his own life for the sole use and benefit of his wife and children, and in case of the death of the husband the amount thus insured shall be paid over to the wife and children, or to the guardian if under age, for her or their own use, free from all the claims of the representatives of her husband or any of his creditors.

SEC. 8. Nothing contained in the foregoing sections of this Article shall operate to prevent the owner of a homestead from disposing of the same by deed; but no deed made by the owner of a homestead shall be valid without the voluntary signature and assent of his wife, signified on her private examination according to law.

ARTICLE XI.—PUNISHMENTS, PENAL INSTITUTIONS AND PUBLIC CHARITIES

SECTION. 1. The following punishments only shall be known to the laws of this State, viz.; death, imprisonment with or without hard labor, fines, removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under this State. The foregoing provision for imprisonment with hard labor shall be construed to authorize the employment of such convict labor on public works or highways, or other labor for public benefit, and the farming out thereof, where and in such manner as may be provided by law; but no convict shall be farmed out who has been sentenced on a charge of murder, manslaughter, rape, attempt to commit rape, or arson: *Provided*, that no convict whose labor may be farmed out shall be punished for any failure of duty as a laborer except by a responsible officer of this State; but the convicts so farmed out shall be at all times under the supervision and control, as to their government and discipline, of the Penitentiary Board or some officer of the State.

SEC. 2. The object of punishment being not only to satisfy justice, but also to reform the offender, and thus prevent crime, murder, arson, burglary and rape, and these only, may be punishable with death, if the General Assembly shall so enact.

SEC. 3. The General Assembly shall, at its first meeting, make provision for the erection and conduct of a State's Prison or Penitentiary at some central and accessible point within the State.

SEC. 4. The General Assembly may provide for the erection of a House of Correction, where vagrants and persons guilty of misdemeanors shall be restrained and usefully employed.

SEC. 5. A House or Houses of Refuge may be established whenever the public interests may require it, for the correction and instruction of other classes of offenders.

SEC. 6. It shall be required by competent legislation that the structure and superintendence of penal institutions of the State, the county jails and city police prisons secure the health and comfort of the prisoners, and that male and female prisoners be never confined in the same room or cell.

SEC. 7. Beneficent provisions for the poor, the unfortunate and orphan being one of the first duties of a civilized and Christian State, the General Assembly shall, at its first session, appoint and define the duties of a Board of Public Charities, to whom shall be entrusted the supervision of all charitable and penal State institutions, and who shall annually report to the Governor upon their condition, with suggestions for their improvement.

SEC. 8. There shall also, as soon as practicable, be measures devised by the State for the establishment of one or more orphan houses, where destitute orphans may be cared for, educated and taught some business or trade.

SEC. 9. It shall be the duty of the Legislature, as soon as practicable, to devise means for the education of idiots and inebriates.

SEC. 10. The General Assembly may provide that the indigent deaf mute, blind and insane, of the State shall be cared for at the charge of the State.

SEC. 11. It shall be steadily kept in view by the Legislature and the Board of Public Charities, that all penal and charitable institutions should be made as nearly self-supporting as is consistent with the purposes of their creation.

ARTICLE XII.—MILITIA

SECTION 1. All able-bodied male citizens of the State of North Carolina, between the ages of twenty-one and forty-years, who are citizens of the United States, shall be liable to do duty in the militia: *Provided*, that all persons who may be averse to bearing arms, from religious scruples, shall be exempt therefrom.

SEC. 2. The General Assembly shall provide for the organizing, arming, equipping and discipline of the militia, and for paying the same, when called into active service.

SEC. 3. The Governor shall be Commander-in-Chief, and shall have power to call out the militia to execute the law, suppress riots or insurrection, and to repel invasion.

SEC. 4. The General Assembly shall have power to make such exemptions as may be deemed necessary, and enact laws that may be expedient for the government of the militia.

ARTICLE XIII.—AMENDMENTS

SECTION 1. No convention of the people of this State shall ever be called by the General Assembly, unless by the concurrence of two-thirds of all the members of each House of the General Assembly, and except the proposition, Convention or No Convention, be first submitted to the qualified voters of the whole State, at the next general election in a manner to be prescribed by law. And should a majority of the votes cast be in favor of said convention, it shall assemble on such day as may be prescribed by the General Assembly.

SEC. 2. No part of the Constitution of this State shall be altered unless a bill to alter the same shall have been agreed to by three-fifths of each House of the General Assembly. And the amendment or amendments so agreed to shall be submitted at the next general election to the qualified voters of the whole State, in such a manner as may be prescribed by law. And in the event of their adoption by a majority of the votes cast, such amendment or amendments shall become part of the Constitution of the State.

ARTICLE XIV.—MISCELLANEOUS

SECTION 1. All indictments which shall have been found, or may hereafter be found, for any crime or offense committed before this Constitution takes effect, may be proceeded upon in the proper Courts, but no punishment shall be inflicted which is forbidden by this Constitution.

SEC. 2. No person who shall hereafter fight a duel, or assist in the same as a second, or send, accept, or knowingly carry a challenge therefor, or agree to go out of the State to fight a duel, shall hold any office in this State.

SEC. 3. No money shall be drawn from the Treasury but in consequence of appropriations made by law; and an accurate account of the receipts and expenditures of the public money shall be annually published.

SEC. 4. The General Assembly shall provide, by proper legislation, for giving to mechanics and laborers an adequate lien on the subject matter of their labor.

SEC. 5. In the absence of any contrary provision, all officers of this State, whether heretofore elected, or appointed by the Governor, shall hold their positions only until other appointments are made by the Governor, or if the officers are elective, until their successors shall have been chosen and duly qualified according to the provisions of this Constitution.

SEC. 6. The seat of government of this State shall remain at the city of Raleigh.

SEC. 7. No person, who shall hold any office or place of trust or profit under the United States, or any department thereof, or under this State or under any other State or Government, shall hold or exercise any other office or place of trust or profit under the authority of this State, or be eligible to a seat in either House of the General Assembly: *Provided*, that nothing herein contained shall extend to officers in the militia, Justices of the Peace, Commissioners of Public Charities, or Commissioners for special purposes.

SEC. 8. All marriages between a white person and a negro, or between a white person and white person of negro descent to the third generation inclusive, are hereby forever prohibited.

CONSTITUTION OF THE UNITED STATES

PREAMBLE

We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America:

ARTICLE I—LEGISLATIVE DEPARTMENT

Congress

SECTION 1. All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

House of Representatives

SECTION 2—1. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

2. No person shall be a Representative who shall not have attained the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of *New Hampshire* shall be entitled to choose three, *Massachusetts* eight, *Rhode Island* and

Providence Plantations one, *Connecticut* five, *New York* six, *New Jersey* four, *Pennsylvania* eight, *Delaware* one, *Maryland* six, *Virginia* ten, *North Carolina* five, *South Carolina* five, and *Georgia* three.

4. When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

5. The House of Representatives shall choose their Speaker and other officers and shall have the sole power of impeachment.

Senate

SECTION 3—1. The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof, for six years; and each Senator shall have one vote.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year, and of the third class, at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation or otherwise during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

3. No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

4. The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

5. The Senate shall choose their other officers, and also a President *pro tempore* in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment, according to law.

Both Houses

SECTION 4—1. The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the place of choosing Senators.

2. The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

The Houses Separately

SECTION 5—1. Each house shall be the judge of the elections, returns, and and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each house may provide.

2. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

3. Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy, and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

4. Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Privileges and Disabilities of Members

SECTION 6—1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law and paid out of the Treasury of the United States. They shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

2. No senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

Mode of Passing Laws

SECTION 7—1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider it. If after such reconsideration two thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

3. Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Powers Granted to Congress

SECTION 8. The Congress shall have power:

1. To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;
2. To borrow money on the credit of the United States;
3. To regulate commerce with foreign nations and among the several States, and with the Indian tribes;
4. To establish a uniform rule of naturalization and uniform laws on the subject of bankruptcies throughout the United States;
5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

6. To provide for the punishment of counterfeiting the securities and current coin of the United States;

7. To establish post offices and post roads;

8. To promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

9. To constitute tribunals inferior to the Supreme Court;

10. To define and punish piracies and felonies committed on the high seas and offences against the law of nations;

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

13. To provide and maintain a navy;

14. To make rules for the government and regulation of the land and naval forces;

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrection, and repel invasions;

16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

17. To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings; and

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

Powers Denied to the United States

SECTION 9—1. The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of *habeas corpus* shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.
3. No bill of attainder or *ex post facto* law shall be passed.
4. No capitation or other direct tax shall be paid, unless in proportion to the census or enumeration hereinbefore directed to be taken.
5. No tax or duty shall be laid on articles exported from any State.
6. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.
7. No money shall be drawn from the Treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.
8. No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign State.

Powers Denied to the States

SECTION 10—1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, *ex post facto* law, or law impairing the obligation of contracts, or grant any title of nobility.

2. No State shall, without the consent of Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

3. No State shall, without the consent of Congress, lay any duty or tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State or with a foreign power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay.

ARTICLE II.—EXECUTIVE DEPARTMENT

President and Vice-President

SECTION 1—1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four

years, and, together with the Vice-President, chosen for the same term, be elected as follows:

2. Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed as elector.

3. (The electors shall meet in their respective States and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said house shall in like manner choose the President. But in choosing the President the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice-President.)*

4. The Congress may determine the time of choosing the electors and the day on which they shall give their votes, which day shall be the same throughout the United States.

5. No person except a natural born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the

*This clause has been amended. See Amendments, Art. XII.

same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly until the disability be removed or a President shall be elected.

7. The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he may have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

8. Before he enter on the execution of his office he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability preserve, protect, and defend the Constitution of the United States."

Powers of the President

SECTION 2—1. The President shall be commander-in-chief of the army and navy of the United States, and of the militia of the several States when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

Duties of the President

SECTION 3. He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures

as he shall judge necessary and expedient; he may, on extraordinary occasion convene both houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Impeachment

SECTION 4. The President, Vice-President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors.

ARTICLE III.—JUDICIAL DEPARTMENT

United States Courts

SECTION 1. The judicial powers of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

Jurisdiction of the United States Courts

SECTION 2—1. The judicial power shall extend to all cases, in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states; between a State and citizen of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States and between a State, or the citizens thereof, and foreign States, citizens, or subjects.*

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.

*This clause has been amended. See Amendments, Art. XI

3. The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

Treason

SECTION 3—1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

2. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attainted.

ARTICLE IV.—INTERSTATE RELATIONS.

State Records

SECTION 1. Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Privileges of Citizens, Etc.

SECTION 2—1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

2. A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

3. No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.*

New States and Territories

SECTION 3—1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other

*See Amendments, Art. XIV

State; nor any State be formed by the junction of two or more States or parts of States, without the consent of the legislatures of the States concerned as well as of the Congress.

2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State.

Guarantee to the States

SECTION 4. The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

ARTICLE V.—POWER OF AMENDMENT

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislature of two-thirds of the several States, shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress, provided that no amendments which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

ARTICLE VI.—PUBLIC DEBT, SUPREMACY OF THE CONSTITUTION, OATH OF OFFICE, RELIGIOUS TEST

1. All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution as under the confederation.

2. This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

3. The Senators and Representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII.—RATIFICATION OF THE CONVENTION

The ratification of the convention of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

Done in convention by the unanimous consent of the States present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the Independence of the United States of America the twelfth. In witness whereof we have hereunto subscribed

our names.

George Washington, President, and Deputy from VIRGINIA.

NEW HAMPSHIRE—John Langdon, Nicholas Gilman.

MASSACHUSETTS—Nathaniel Gorham, Rufus King.

CONNECTICUT—William Samuel Johnson, Roger Sherman.

NEW YORK—Alexander Hamilton.

NEW JERSEY—William Livingston, David Brearly, William Patterson, Jonathan Dayton.

PENNSYLVANIA—Benjamin Franklin, Thomas Mifflin, Robert Morris, George Clymer, Thomas Fitzsimmons, Jared Ingersoll, James Wilson, Gouverneur Morris.

DELAWARE—George Read, Gunning Bedford, Jr., John Dickinson, Richard Bassett, Jacob Broom.

MARYLAND—James McHenry, Daniel of St. Thomas Jenifer, Daniel Carroll.

VIRGINIA—John Blair, James Madison, Jr.

NORTH CAROLINA—William Blount, Richard Dobbs Spaight, Hugh Williamson.

SOUTH CAROLINA—John Rutledge, Charles Cotesworth Pinckney, Charles Pinckney, Pierce Butler.

GEORGIA—William Few, Abraham Baldwin.

Attest: William Jackson, *Secretary*.

AMENDMENTS

ARTICLE I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the

press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ARTICLE II

A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

ARTICLE III

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.

ARTICLE IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ARTICLE V

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

ARTICLE VI

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

ARTICLE VII

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

ARTICLE VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ARTICLE IX

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ARTICLE X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.

ARTICLE XI

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

ARTICLE XII

1. The electors shall meet in their respective States and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President; and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President and of all persons voted for as Vice-President, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted. The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors

appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.

2. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

3. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

ARTICLE XIII.

1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

2. Congress shall have power to enforce this article by appropriate legislation.

ARTICLE XIV.

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States,

Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged except for participation in rebellion, on other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty one years of age in such State.

3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each house, remove such disability.

4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

ARTICLE XV.

1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

2. The Congress shall have power to enforce this article by appropriate legislation.

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